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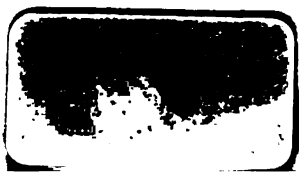
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THE EXECUTIVE DOCUMENTS

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THE HOUSE OF REPRESENTATIVES

DURING THE

SECOND SESSION OF THE FORTY-SECOND CONGRESS.

1871-'72.

IN SEVENTEEN VOLUMES.

- Volume 1....No. 1 and Part 1 of No. 1.
- Volume 2....No. 1, Part 2. War; Parts 1 and 2.
- Volume 3....No. 1, Part 5. Interior; Parts 1 and 2.
- Volume 4....No. 2 and Parts 3 and 4 of No. 1.
- Volume 5....Nos. 3 and 4.
- Volume 6....No. 5 to No. 20, inclusive.
- Volume 7....No. 21 to No. 84, inclusive.
- Volume 8....No. 85 to No. 106, inclusive.
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- Volume 10....No. 110 to No. 212, inclusive; except No. 121.
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42D CONGRESS, }
2d Session. }

HOUSE OF REPRESENTATIVES.

{ Ex. Doc.
No. 1.

MESSAGE

OF THE

PRESIDENT OF THE UNITED STATES,

TOGETHER WITH THE

REPORTS OF THE HEADS OF DEPARTMENTS,

TO THE

TWO HOUSES OF CONGRESS

AT THE

COMMENCEMENT OF THE SECOND SESSION OF THE
FORTY-SECOND CONGRESS.



WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1871.

MESSAGE.

To the Senate and House of Representatives :

In addressing my third annual message to the law-making branch of the Government, it is gratifying to be able to state that during the past year success has generally attended the effort to execute all laws found upon the statute-books. The policy has been, not to inquire into the wisdom of laws already enacted, but to learn their spirit and intent, and to enforce them accordingly.

The past year has, under a wise Providence, been one of general prosperity to the nation. It has, however, been attended with more than usual chastisements in the loss of life and property, by storm and fire. These disasters have served to call forth the best elements of human nature in our country, and to develop a friendship for us on the part of foreign nations which goes far toward alleviating the distresses occasioned by these calamities. The benevolent, who have so generously shared their means with the victims of these misfortunes, will reap their reward in the consciousness of having performed a noble act, and in receiving the grateful thanks of men, women, and children whose sufferings they have relieved.

The relations of the United States with foreign powers continue to be friendly. The year has been an eventful one in witnessing two great nations, speaking one language and having one lineage, settling, by peaceful arbitration, disputes of long standing, and liable at any time to bring those nations into bloody and costly conflict. An example has thus been set which, if successful in its final issue, may be followed by other civilized nations, and finally be the means of returning to productive industry millions of men now maintained to settle the disputes of nations by the bayonet and the broadside.

I transmit herewith a copy of the treaty alluded to, which has been concluded, since the adjournment of Congress, with Her Britannic Majesty, and a copy of the protocols of the conferences of the commissioners by whom it was negotiated. This treaty provides methods for adjusting the questions pending between the two nations.

Various questions are to be adjusted by arbitration. I recommend Congress at an early day to make the necessary provision for the tribunal at Geneva, and for the several commissioners, on the part of the United States, called for by the treaty.

His Majesty the King of Italy, the President of the Swiss Confederation, and His Majesty the Emperor of Brazil, have each consented, on the joint request of the two powers, to name an arbitrator for the tribu-

nal at Geneva. I have caused my thanks to be suitably expressed for the readiness with which the joint request has been complied with, by the appointment of gentlemen of eminence and learning to these important positions.

His Majesty the Emperor of Germany has been pleased to comply with the joint request of the two governments, and has consented to act as the arbitrator of the disputed water boundary between the United States and Great Britain.

The contracting parties in the treaty have undertaken to regard as between themselves certain principles of public law, for which the United States have contended from the commencement of their history. They have also agreed to bring those principles to the knowledge of the other maritime powers and to invite them to accede to them. Negotiations are going on as to the form of the note by which the invitation is to be extended to the other powers.

I recommend the legislation necessary on the part of the United States to bring into operation the articles of the treaty relating to the fisheries, and to the other matters touching the relations of the United States toward the British North American possessions, to become operative so soon as the proper legislation shall be had on the part of Great Britain and its possessions. It is much to be desired that this legislation may become operative before the fishermen of the United States begin to make their arrangements for the coming season.

I have addressed a communication, of which a copy is transmitted herewith, to the governors of New York, Pennsylvania, Ohio, Indiana, Michigan, Illinois, and Wisconsin, urging upon the governments of those States, respectively, the necessary action on their part to carry into effect the object of the article of the treaty which contemplates the use of the canals, on either side, connected with the navigation of the lakes and rivers forming the boundary, on terms of equality by the inhabitants of both countries. It is hoped that the importance of the object and the benefits to flow therefrom will secure the speedy approval and legislative sanction of the States concerned.

I renew the recommendation for an appropriation for determining the true position of the forty-ninth parallel of latitude where it forms the boundary between the United States and the British North American possessions, between the Lake of the Woods and the summit of the Rocky Mountains. The early action of Congress on this recommendation would put it in the power of the War Department to place a force in the field during the next summer.

The resumption of diplomatic relations between France and Germany have enabled me to give directions for the withdrawal of the protection extended to Germans in France by the diplomatic and consular representatives of the United States in that country. It is just to add that the delicate duty of this protection has been performed by the minister and the consul general at Paris, and the various consuls in France

under the supervision of the latter, with great kindness as well as with prudence and tact. Their course has received the commendation of the German government, and has wounded no susceptibility of the French.

The government of the Emperor of Germany continues to manifest a friendly feeling toward the United States, and a desire to harmonize with the moderate and just policy which this Government maintains in its relations with Asiatic powers, as well as with the South American republics. I have given assurances that the friendly feelings of that government are fully shared by the United States.

The ratifications of the consular and naturalization conventions with the Austro-Hungarian Empire have been exchanged.

I have been officially informed of the annexation of the States of the Church to the Kingdom of Italy, and the removal of the capital of that kingdom to Rome. In conformity with the established policy of the United States, I have recognized this change. The ratifications of the new treaty of commerce between the United States and Italy have been exchanged. The two powers have agreed in this treaty that private property at sea shall be exempt from capture in case of war between the two powers. The United States have spared no opportunity of incorporating this rule into the obligation of nations.

The Forty-first Congress at its third session made an appropriation for the organization of a mixed commission for adjudicating upon the claims of citizens of the United States against Spain growing out of the insurrection in Cuba. That commission has since been organized. I transmit herewith the correspondence relating to its formation and its jurisdiction. It is to be hoped that this commission will afford the claimants a complete remedy for their injuries.

It has been made the agreeable duty of the United States to preside over a conference at Washington between the plenipotentiaries of Spain and the allied South American republics, which has resulted in an armistice, with the reasonable assurance of a permanent peace.

The intimate friendly relations which have so long existed between the United States and Russia continue undisturbed. The visit of the third son of the Emperor is a proof that there is no desire on the part of his government to diminish the cordiality of those relations. The hospitable reception which has been given to the Grand Duke is a proof that on our side we share the wishes of that government. The inexcusable course of the Russian minister at Washington rendered it necessary to ask his recall, and to decline to longer receive that functionary as a diplomatic representative. It was impossible with self-respect, or with a just regard to the dignity of the country, to permit Mr. Catacazy to continue to hold intercourse with this Government after his personal abuse of Government officials, and during his persistent interference, through various means, with the relations between the United States and other powers. In accordance with my wishes, this Government has been relieved of further intercourse with Mr. Catacazy,

and the management of the affairs of the imperial legation has passed into the hands of a gentleman entirely unobjectionable.

With Japan we continue to maintain intimate relations. The cabinet of the Mikado has, since the close of the last session of Congress, selected citizens of the United States to serve in offices of importance in several departments of government. I have reason to think that this selection is due to an appreciation of the disinterestedness of the policy which the United States have pursued toward Japan. It is our desire to continue to maintain this disinterested and just policy with China as well as Japan. The correspondence transmitted herewith shows that there is no disposition on the part of this Government to swerve from its established course.

Prompted by a desire to put an end to the barbarous treatment of our shipwrecked sailors on the Corean coast, I instructed our minister at Peking to endeavor to conclude a convention with Corea for securing the safety and humane treatment of such mariners.

Admiral Rodgers was instructed to accompany him, with a sufficient force to protect him in case of need.

A small surveying party sent out, on reaching the coast, was treacherously attacked at a disadvantage. Ample opportunity was given for explanation and apology for the insult. Neither came. A force was then landed. After an arduous march over a rugged and difficult country, the forts from which the outrages had been committed were reduced by a gallant assault and were destroyed. Having thus punished the criminals, and having vindicated the honor of the flag, the expedition returned, finding it impracticable, under the circumstances, to conclude the desired convention. I respectfully refer to the correspondence relating thereto, herewith submitted, and leave the subject for such action as Congress may see fit to take.

The republic of Mexico has not yet repealed the very objectionable laws establishing what is known as the "Free Zone," on the frontier of the United States. It is hoped that this may yet be done, and also that more stringent measures may be taken by that republic for restraining lawless persons on its frontiers. I hope that Mexico, by its own action, will soon relieve this Government of the difficulties experienced from these causes. Our relations with the various republics of Central and South America continue, with one exception, to be cordial and friendly.

I recommend some action by Congress regarding the overdue installments under the award of the Venezuelan claims commission of 1866. The internal dissensions of this government present no justification for the absence of effort to meet their solemn treaty obligations.

The ratification of an extradition treaty with Nicaragua has been exchanged.

It is a subject for congratulation that the great empire of Brazil has taken the initiatory step toward the abolition of slavery. Our relations

with that empire, always cordial, will naturally be made more so by this act. It is not too much to hope that the government of Brazil may hereafter find it for its interest as well as intrinsically right to advance toward entire emancipation more rapidly than the present act contemplates.

The true prosperity and greatness of a nation is to be found in the elevation and education of its laborers.

It is a subject for regret that the reforms in this direction, which were voluntarily promised by the statesmen of Spain, have not been carried out in its West India colonies. The laws and regulations for the apparent abolition of slavery in Cuba and Porto Rico leave most of the laborers in bondage, with no hope of release until their lives become a burden to their employers.

I desire to direct your attention to the fact that citizens of the United States, or persons claiming to be citizens of the United States, are large holders, in foreign lands, of this species of property, forbidden by the fundamental law of their alleged country. I recommend to Congress to provide, by stringent legislation, a suitable remedy against the holding, owning, or dealing in slaves, or being interested in slave property in foreign lands, either as owners, hirers, or mortgagers, by citizens of the United States.

It is to be regretted that the disturbed condition of the island of Cuba continues to be a source of annoyance and of anxiety. The existence of a protracted struggle in such close proximity to our own territory, without apparent prospect of an early termination, cannot be other than an object of concern to a people who, while abstaining from interference in the affairs of other powers, naturally desire to see every country in the undisturbed enjoyment of peace, liberty, and the blessings of free institutions.

Our naval commanders in Cuban waters have been instructed, in case it should become necessary, to spare no effort to protect the lives and property of *bona-fide* American citizens, and to maintain the dignity of the flag.

It is hoped that all pending questions with Spain growing out of the affairs in Cuba may be adjusted in the spirit of peace and conciliation which has hitherto guided the two powers in their treatment of such questions.

To give importance, and to add to the efficiency of our diplomatic relations with Japan and China, and to further aid in retaining the good opinion of those peoples, and to secure to the United States its share of the commerce destined to flow between those nations and the balance of the commercial world, I earnestly recommend that an appropriation be made to support at least four American youths in each of those countries, to serve as a part of the official family of our ministers there. Our representatives would not even then be placed upon an equality with the representatives of Great Britain and of some other

powers. As now situated, our representatives in Japan and China have to depend, for interpreters and translators, upon natives of those countries who know our language imperfectly, or procure for the occasion the services of employ  s in foreign business houses, or the interpreters to other foreign ministers.

I would also recommend liberal measures for the purpose of supporting the American lines of steamers now plying between San Francisco and Japan and China, and the Australian line—almost our only remaining lines of ocean steamers—and of increasing their services.

The national debt has been reduced to the extent of eighty-six million fifty-seven thousand one hundred and twenty-six dollars and eighty cents during the year, and by the negotiation of national bonds at a lower rate of interest, the interest on the public debt has been so far diminished that now the sum to be raised for the interest account is nearly seventeen million dollars less than on the 1st of March, 1869. It was highly desirable that this rapid diminution should take place, both to strengthen the credit of the country, and to convince its citizens of their entire ability to meet every dollar of liability without bankrupting them. But in view of the accomplishment of these desirable ends; of the rapid development of the resources of the country; its increasing ability to meet large demands, and the amount already paid, it is not desirable that the present resources of the country should continue to be taxed in order to continue this rapid payment. I therefore recommend a modification of both the tariff and internal tax laws. I recommend that all taxes from internal sources be abolished, except those collected from spirituous, vinous, and malt liquors, tobacco in its various forms, and from stamps.

In re-adjusting the tariff, I suggest that a careful estimate be made of the amount of surplus revenue collected under the present laws, after providing for the current expenses of the Government, the interest account, and a sinking fund, and that this surplus be reduced in such a manner as to afford the greatest relief to the greatest number. There are many articles not produced at home, but which enter largely into general consumption through articles which are manufactured at home, such as medicines compounded, &c., &c., from which very little revenue is derived, but which enter into general use. All such articles I recommend to be placed on the “free list.” Should a further reduction prove advisable, I would then recommend that it be made upon those articles which can best bear it without disturbing home-production, or reducing the wages of American labor.

I have not entered into figures, because to do so would be to repeat what will be laid before you in the report of the Secretary of the Treasury. The present laws for collecting revenue pay collectors of customs small salaries, but provide for moieties (shares in all seizures) which, at principal ports of entry particularly, raise the compensation of those officials to a large sum. It has always seemed to me as if this system

must, at times, work perniciously. It holds out an inducement to dishonest men, should such get possession of those offices, to be lax in their scrutiny of goods entered to enable them finally to make large seizures. Your attention is respectfully invited to this subject.

Continued fluctuations in the value of gold, as compared with the national currency, has a most damaging effect upon the increase and development of the country in keeping up prices of all articles necessary in every-day life. It fosters a spirit of gambling prejudicial alike to national morals and the national finances. If the question can be met, as to how to give a fixed value to our currency, that value constantly and uniformly approaching par with specie, a very desirable object will be gained.

For the operations of the Army in the past year, the expense of maintaining it, the estimate for the ensuing year, and for continuing sea-coast and other improvements conducted under the supervision of the War Department, I refer you to the accompanying report of the Secretary of War.

I call your attention to the provisions of the act of Congress approved March 3, 1869, which discontinues promotions in the staff corps of the Army until provided for by law. I recommend that the number of officers in each grade in the staff corps be fixed, and that whenever the number in any one grade falls below the number so fixed, that the vacancy may be filled by promotion from the grade below. I also recommend that, when the office of chief of a corps becomes vacant, the place may be filled by selection from the corps in which the vacancy exists.

The report of the Secretary of the Navy shows an improvement in the number and efficiency of the naval force, without material increase in the expense of supporting it. This is due to the policy which has been adopted, and is being extended, as fast as our material will admit, of using smaller vessels as cruisers on the several stations. By this means we have been enabled to occupy at once a larger extent of cruising-ground, to visit more frequently the ports where the presence of our flag is desirable, and generally to discharge more efficiently the appropriate duties of the Navy in time of peace, without exceeding the number of men or the expenditure authorized by law.

During the past year the Navy has, in addition to its regular service, supplied the men and officers for the vessels of the Coast Survey, and has completed the surveys authorized by Congress of the Isthmus of Darien and Tehuantepec, and under like authority has sent out an expedition completely furnished and equipped to explore the unknown ocean of the north.

The suggestions of the report as to the necessity for increasing and improving the *materiel* of the Navy, and the plan recommended for reducing the *personnel* of the service to a peace standard, by the gradual abolition of certain grades of officers, the reduction of others,

and the employment of some in the service of the commercial marine, are well considered and deserve the thoughtful attention of Congress.

I also recommend that all promotions in the Navy above the rank of captain be by selection instead of by seniority. This course will secure in the higher grades greater efficiency and hold out an incentive to young officers to improve themselves in the knowledge of their profession.

The present cost of maintaining the Navy, its cost compared with that of the preceding year, and the estimates for the ensuing year, are contained in the accompanying report of the Secretary of the Navy.

The enlarged receipts of the Post-Office Department, as shown by the accompanying report of the Postmaster General, exhibits a gratifying increase in that branch of the public service. It is the index of the growth of education and of the prosperity of the people, two elements highly conducive to the vigor and stability of republics. With a vast territory like ours, much of it sparsely populated, but all requiring the services of the mail, it is not at present to be expected that this Department can be made self-sustaining. But a gradual approach to this end, from year to year, is confidently relied on, and the day is not far distant when the Post-Office Department of the Government will prove a much greater blessing to the whole people than it is now.

The suggestions of the Postmaster General for improvements in the Department presided over by him are earnestly recommended to your special attention. Especially do I recommend favorable consideration of the plan for uniting the telegraphic system of the United States with the postal system. It is believed that by such a course the cost of telegraphing could be much reduced, and the service as well, if not better, rendered. It would secure the further advantage of extending the telegraph through portions of the country where private enterprise will not construct it. Commerce, trade, and, above all, the efforts to bring a people widely separated into a community of interest, are always benefited by a rapid intercommunication. Education, the ground-work of republican institutions, is encouraged by increasing the facilities to gather speedy news from all parts of the country. The desire to reap the benefit of such improvements will stimulate education. I refer you to the report of the Postmaster General for full details of the operations of last year, and for comparative statements of results with former years.

There has been imposed upon the Executive branch of the Government the execution of the act of Congress approved April 20, 1871, and commonly known as the Ku-Klux law, in a portion of the State of South Carolina. The necessity of the course pursued will be demonstrated by the report of the Committee to Investigate Southern Outrages. Under the provisions of the above act, I issued a proclamation calling the attention of the people of the United States to the same, and declaring my reluctance to exercise any of the extraordinary powers thereby con-

ferred upon me, except in case of imperative necessity, but making known my purpose to exercise such powers whenever it should become necessary to do so for the purpose of securing to all citizens of the United States the peaceful enjoyment of the rights guaranteed to them by the Constitution and the laws.

After the passage of this law, information was received from time to time that combinations of the character referred to in this law existed, and were powerful in many parts of the Southern States, particularly in certain counties in the State of South Carolina.

Careful investigation was made, and it was ascertained that, in nine counties of that State, such combinations were active and powerful, embracing a sufficient portion of the citizens to control the local authority, and having, among other things, the object of depriving the emancipated class of the substantial benefits of freedom, and of preventing the free political action of those citizens who did not sympathize with their own views. Among their operations were frequent scourgings and occasional assassinations, generally perpetrated at night by disguised persons, the victims in almost all cases being citizens of different political sentiments from their own, or freed persons who had shown a disposition to claim equal rights with other citizens. Thousands of inoffensive and well-disposed citizens were the sufferers by this lawless violence.

Thereupon, on the 12th of October, 1871, a proclamation was issued, in terms of the law, calling upon the members of those combinations to disperse within five days, and to deliver to the marshal or military officers of the United States all arms, ammunition, uniforms, disguises, and other means and implements used by them for carrying out their unlawful purposes.

This warning not having been heeded, on the 17th of October another proclamation was issued, suspending the privileges of the writ of *habeas corpus* in nine counties in that State.

Direction was given that, within the counties so designated, persons supposed, upon creditable information, to be members of such unlawful combinations should be arrested by the military forces of the United States, and delivered to the marshal, to be dealt with according to law. In two of said counties, York and Spartanburgh, many arrests have been made. At the last account, the number of persons thus arrested was one hundred and sixty-eight. Several hundred, whose criminality was ascertained to be of an inferior degree, were released for the present. These have generally made confessions of their guilt.

Great caution has been exercised in making these arrests, and, notwithstanding the large number, it is believed that no innocent person is now in custody. The prisoners will be held for regular trial in the judicial tribunals of the United States.

As soon as it appeared that the authorities of the United States were about to take vigorous measures to enforce the law, many persons absconded, and there is good ground for supposing that all of such per-

sons have violated the law. A full report of what has been done under this law will be submitted to Congress by the Attorney General.

In Utah there still remains a remnant of barbarism, repugnant to civilization, to decency, and to the laws of the United States. Territorial officers, however, have been found who are willing to perform their duty in a spirit of equity and with a due sense of the necessity of sustaining the majesty of the law. Neither polygamy nor any other violation of existing statutes will be permitted within the territory of the United States. It is not with the religion of the self-styled Saints that we are now dealing, but with their practices. They will be protected in the worship of God according to the dictates of their consciences, but they will not be permitted to violate the laws under the cloak of religion.

It may be advisable for Congress to consider what, in the execution of the laws against polygamy, is to be the status of plural wives and their offspring. The propriety of Congress passing an enabling act authorizing the territorial legislature of Utah to legitimize all children born prior to a time fixed in the act might be justified by its humanity to these innocent children. This is a suggestion only, and not a recommendation.

The policy pursued toward the Indians has resulted favorably, so far as can be judged from the limited time during which it has been in operation. Through the exertions of the various societies of Christians to whom has been intrusted the execution of the policy, and the board of commissioners authorized by the law of April 10, 1869, many tribes of Indians have been induced to settle upon reservations, to cultivate the soil, to perform productive labor of various kinds, and to partially accept civilization. They are being cared for in such a way, it is hoped, as to induce those still pursuing their old habits of life to embrace the only opportunity which is left them to avoid extermination.

I recommend liberal appropriations to carry out the Indian peace policy, not only because it is humane, Christian-like, and economical, but because it is right.

I recommend to your favorable consideration also the policy of granting a territorial government to the Indians in the Indian Territory west of Arkansas and Missouri and south of Kansas. In doing so, every right guaranteed to the Indian by treaty should be secured. Such a course might in time be the means of collecting most of the Indians now between the Missouri and the Pacific and south of the British possessions into one Territory or one State. The Secretary of the Interior has treated upon this subject at length, and I commend to you his suggestions.

I renew my recommendation that the public lands be regarded as a heritage to our children, to be disposed of only as required for occupation and to actual settlers. Those already granted have been in great part disposed of in such a way as to secure access to the balance by the

hardy settler who may wish to avail himself of them, but caution should be exercised even in attaining so desirable an object.

Educational interest may well be served by the grant of the proceeds of the sale of public lands to settlers. I do not wish to be understood as recommending, in the least degree, a curtailment of what is being done by the General Government for the encouragement of education.

The report of the Secretary of the Interior, submitted with this, will give you all the information collected and prepared for publication in regard to the census taken during the year 1870; the operations of the Bureau of Education for the year; the Patent Office; the Pension Office; the Land Office; and the Indian Bureau.

The report of the Commissioner of Agriculture gives the operations of his Department for the year. As agriculture is the ground-work of our prosperity, too much importance cannot be attached to the labors of this Department. It is in the hands of an able head, with able assistants, all zealously devoted to introduce into the agricultural productions of the nation all useful products adapted to any of the various climates and soils of our vast territory, and to giving all useful information as to the method of cultivation, the plants, cereals, and other products adapted to particular localities. Quietly, but surely, the Agricultural Bureau is working a great national good, and if liberally supported, the more widely its influence will be extended and the less dependent we shall be upon the products of foreign countries.

The subject of compensation to the heads of Bureaus and officials holding positions of responsibility, and requiring ability and character to fill properly, is one to which your attention is invited. But few of the officials receive a compensation equal to the respectable support of a family, while their duties are such as to involve millions of interest. In private life services demand compensation equal to the services rendered. A wise economy would dictate the same rule in the Government service.

I have not given the estimates for the support of Government for the ensuing year, nor the comparative statement between the expenditures for the year just passed and the one just preceding, because all these figures are contained in the accompanying reports, or in those presented directly to Congress. These estimates have my approval.

More than six years having elapsed since the last hostile gun was fired between the armies then arrayed against each other—one for the perpetuation, the other for the destruction of the Union—it may well be considered whether it is not now time that the disabilities imposed by the fourteenth amendment should be removed. That amendment does not exclude the ballot, but only imposes the disability to hold offices upon certain classes. When the purity of the ballot is secure, majorities are sure to elect officers reflecting the views of the majority. I do not see the advantage or propriety of excluding men from office merely because they were, before the rebellion, of standing and character sufficient to be elected to positions requiring them to take oaths to support the Con-

stitution, and admitting to eligibility those entertaining precisely the same views, but of less standing in their communities. It may be said that the former violated an oath, while the latter did not. The latter did not have it in their power to do so. If they had taken this oath it cannot be doubted they would have broken it as did the former class. If there are any great criminals, distinguished above all others for the part they took in opposition to the Government, they might, in the judgment of Congress, be excluded from such an amnesty.

This subject is submitted for your careful consideration.

The condition of the Southern States is, unhappily, not such as all true patriotic citizens would like to see. Social ostracism for opinion's sake, personal violence or threats toward persons entertaining political views opposed to those entertained by the majority of the old citizens, prevents immigration and the flow of much-needed capital into the States lately in rebellion. It will be a happy condition of the country when the old citizens of these States will take an interest in public affairs, promulgate ideas honestly entertained, vote for men representing their views, and tolerate the same freedom of expression and ballot in those entertaining different political convictions.

Under the provisions of the act of Congress approved February 21, 1871, a territorial government was organized in the District of Columbia. Its results have thus far fully realized the expectations of its advocates. Under the direction of the territorial officers, a system of improvements has been inaugurated, by means of which Washington is rapidly becoming a city worthy of the nation's capital. The citizens of the District having voluntarily taxed themselves to a large amount for the purpose of contributing to the adornment of the seat of Government, I recommend liberal appropriations on the part of Congress in order that the Government may bear its just share of the expense of carrying out a judicious system of improvements.

By the great fire in Chicago, the most important of the Government buildings in that city were consumed. Those burned had already become inadequate to the wants of the Government in that growing city, and, looking to the near future, were totally inadequate. I recommend therefore that an appropriation be made immediately to purchase the remainder of the square on which the burned buildings stood, provided it can be purchased at a fair valuation, or provided that the legislature of Illinois will pass a law authorizing its condemnation for Government purposes; and also an appropriation of as much money as can properly be expended toward the erection of new buildings during this fiscal year.

The number of immigrants ignorant of our laws, habits, &c., coming into our country annually has become so great, and the impositions practiced upon them so numerous and flagrant, that I suggest congressional action for their protection. It seems to me a fair subject of legislation by Congress. I cannot now state as fully as I desire the nature of the complaints made by immigrants of the treatment they

receive, but will endeavor to do so during the session of Congress, particularly if the subject should receive your attention.

It has been the aim of the Administration to enforce honesty and efficiency in all public offices. Every public servant who has violated the trust placed in him has been proceeded against with all the rigor of the law. If bad men have secured places it has been the fault of the system established by law and custom for making appointments, or the fault of those who recommend for Government positions persons not sufficiently well known to them personally, or who give letters indorsing the characters of office-seekers without a proper sense of the grave responsibility which such a course devolves upon them. A civil service reform which can correct this abuse is much desired. In mercantile pursuit, the business-man who gives a letter of recommendation to a friend, to enable him to obtain credit from a stranger, is regarded as morally responsible for the integrity of his friend, and his ability to meet his obligations. A reformatory law which would enforce this principle against all indorsers of persons for public place would insure great caution in making recommendations. A salutary lesson has been taught the careless and the dishonest public servant in the great number of prosecutions and convictions of the last two years.

It is gratifying to notice the favorable change which is taking place throughout the country in bringing to punishment those who have proven recreant to the trusts confided to them, and in elevating to public office none but those who possess the confidence of the honest and the virtuous, who, it will always be found, comprise the majority of the community in which they live.

In my message to Congress one year ago, I urgently recommended a reform in the civil service of the country. In conformity with that recommendation, Congress, in the ninth section of "An act making appropriations for sundry civil expenses of the Government, and for other purposes," approved March 3, 1871, gave the necessary authority to the Executive to inaugurate a civil service reform, and placed upon him the responsibility of doing so. Under the authority of said act I convened a board of gentlemen, eminently qualified for the work, to devise rules and regulations to effect the needed reform. Their labors are not yet complete, but it is believed that they will succeed in devising a plan that can be adopted to the great relief of the Executive, the heads of Departments, and members of Congress, and which will redound to the true interest of the public service. At all events, the experiment shall have a fair trial.

I have thus hastily summed up the operations of the Government during the last year, and made such suggestions as occur to me to be proper for your consideration. I submit them with a confidence that your combined action will be wise, statesmanlike, and in the best interests of the whole country.

U. S. GRANT.

EXECUTIVE MANSION, *December 4, 1871.*

R E P O R T
OF THE
SECRETARY OF THE TREASURY.

2 M

REPORT

OF THE

SECRETARY OF THE TREASURY.

TREASURY DEPARTMENT,
December 4, 1871.

SIR: The country has been prosperous during the year now closing, and the public finances have shared in the general prosperity.

During the fiscal year ending June 30, 1871, the reduction of the public debt was \$94,327,764 84. The total decrease in the public debt from March 1, 1869, to December 1, 1871, was \$277,211,892 16; and during the same period the annual interest charge has been reduced \$16, 741, 436 04.

The revenues for the year 1871, and the receipts since the first of July last, show that the time has arrived when a considerable further reduction in taxes can be made, and yet leave the Government in a position to pay at least fifty millions of dollars annually of the principal of the public debt, including the amount pledged through the sinking fund. In my annual report to Congress for 1870, I expressed the opinion that the settled policy of the country should contemplate a revenue sufficient to meet the ordinary expenses of the Government, pay the interest on the public debt, and from twenty-five to fifty millions of dollars of the principal annually. To that opinion I adhere, with even a stronger conviction that the payment annually upon the principal of the public debt should not be less than fifty millions of dollars.

Large as the revenues of the country have been during the last three years, our system of taxation has not been oppressive to individuals, nor has it in any sensible degree embarrassed the business of the country; and while relief from taxation is desirable it is yet more desirable to maintain the public credit in its present elevated position, not only as an example to other nations, but for its historical value in enabling the Government to make loans for large amounts

upon favorable terms if, unhappily, in the future an exigency should require such loans to be made.

The power to negotiate a large loan at five per cent. interest, and to enter upon negotiations for the sale of bonds bearing five, four-and-a-half, and four per cent. interest, is derived entirely from the exhibition of an honest purpose on the part of the people to maintain the public faith, and the consequent ability on the part of the Government to answer that expectation by large and frequent payments upon the public debt.

The revenue from customs for the fiscal year 1871 was greatly in excess of the estimates, amounting to \$206,270,408 05, against \$194,538,374 44, for the preceding year. The cost of collecting this revenue was \$6,560,672 61, for 1871, being three and eleven hundredths per cent., while the cost for the year 1870 was \$6,237,137 25, or three and twenty hundredths per cent.

The appropriation for the collection of the customs, with the additions derived from fines, penalties, and forfeitures, exceeded the expenditures by the sum of more than eight hundred thousand dollars, and there is no doubt that the permanent appropriation will be ample for the present year, and for the next fiscal year.

The reduction of the rates of duty on the 1st of January, 1871, under the act of July 14, 1870, diminished the importation of many articles during the last six months of the year 1870, but there was consequently a large addition to the revenues for the first six months of the year 1871.

A comparison of the first six months of the calendar year 1871 with the first six months of the calendar year 1870, shows an increase of fifty-five per cent. in the quantity of tea imported, twenty per cent. in the quantity of coffee, fifty-three per cent. in the quantity of brown sugar, one hundred and twenty per cent. in the quantity of pig iron, one hundred and eighty-six per cent. in the quantity of melado, one hundred and thirty-nine per cent. in the quantity of spices, and a large increase in many other articles.

The probability is that the customs revenue for the current year will exceed that for the year 1870-71.

The receipts from internal revenue were \$143,098,153 63, being \$4,048,984 29 less than the estimates presented to Congress in December last for the fiscal year ending June 30, 1871. The estimates for the current fiscal year were \$126,418,000, and it is probable that the receipts will be equal to the estimates.

The net receipts for the fiscal year ending June 30, 1871, were as follows:

From customs.....	\$206, 270, 408 05
From internal revenue.....	143, 098, 153 63
From sales of public lands.....	2, 388, 646 68
From miscellaneous sources.....	31, 566, 736 53
	<hr/>
	383, 323, 944 89
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The expenditures for the same period were:

For civil and miscellaneous purposes.....	\$69, 498, 710 97
For War Department.....	*35, 799, 991 82
For Navy Department.....	19, 431, 027 21
For Indians.....	7, 426, 997 44
For Pensions.....	34, 443, 894 88
For interest on the public debt.....	125, 576, 565 93
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	292, 177, 188 25
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The miscellaneous revenues for the fiscal year ending June 30, 1871, were derived from the following sources:

Premium on sales of coin.....	\$8, 892, 839 95
Fees from United States consuls.....	565, 563 24
Storage, rent, labor, &c., at custom-houses.....	414, 310 61
Fines, penalties, and forfeitures for violations of customs laws.....	952, 579 86
Fees on letters patent.....	620, 319 11
Tax on circulation, deposits, &c., of national banks..	6, 003, 584 32
Repayment of interest by Pacific railway companies..	813, 284 75
Homestead and other land fees.....	645, 923 17
Steamboat fees and marine-hospital tax.....	385, 535 16
Proceeds of sale of coin-interest on sinking and special funds.....	7, 701, 662 73
Judiciary—fines, penalties, and forfeitures.....	75, 836 30
Tax on seal-skins.....	101, 080 00
Reimbursement to the United States for salaries of storekeepers in internal revenue bonded warehouses..	557, 235 41
Direct tax.....	580, 355 37
Emolument fees.....	585, 887 69
Parting charges—refining gold and silver bullion....	211, 721 14
Proceeds of Indian trust lands.....	1, 140, 120 28

*This is the net amount after deducting \$8,280,093 13 repaid into the Treasury as proceeds of sales of ordnance, etc. The true expenditures were \$44,080,064 95.

Accrued interest on, and proceeds of sale of, Indian trust-fund stocks, and interest on deferred payments on Indian-trust lands.....	\$387, 921 01
Reimbursements to the United States for moneys advanced to meet matured interest on non-paying stocks held in trust for various Indian tribes.....	35, 535 00
One, two, three, and five-cent coinage.....	150, 000 00
Unenumerated	745, 441 43
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	31, 566, 736 53
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The receipts for the first quarter of the present fiscal year were:

From customs.....	\$62, 289, 329 37
From internal revenue.....	35, 553, 175 01
From sales of public lands.....	602, 680 61
From miscellaneous sources.....	8, 753, 189 61
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	107, 198, 374 60
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The expenditures for the same period, excluding payments on account of the sinking fund, were:

For civil and miscellaneous purposes.....	\$16, 579, 732 46
For War Department.....	12, 590, 653 05
For Navy Department.....	6, 513, 040 93
For Indians.....	3, 404, 133 42
For Pensions	8, 090, 698 69
For interest on the public debt	36, 725, 124 37
	<hr/>
	83, 903, 382 92
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The estimated receipts for the remaining three quarters of the present year, are as follows:

From customs.....	\$148, 000, 000 00
From internal revenue.....	90, 000, 000 00
From sales of public lands.....	2, 000, 000 00
From miscellaneous sources	18, 000, 000 00
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	258, 000, 000 00
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The estimated expenditures for the same period, excluding payments on account of the sinking fund, are:

For civil and miscellaneous purposes.....	\$50, 000, 000 00
For War Department.....	31, 000, 000 00

For Navy Department.....	\$13,500,000 00
For Indians.....	6,000,000 00
For Pensions.....	24,000,000 00
For interest on the public debt.....	85,000,000 00
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	209,500,000 00
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These estimates show a balance applicable to the payment of the principal of the public debt for the fiscal year ending June 30, 1872, \$71,794,991 68.

The receipts and expenditures for the fiscal year ending June 30, 1873, are estimated as follows:

RECEIPTS.

From customs.....	\$212,000,000
From internal revenue.....	126,000,000
From sales of public lands.....	3,000,000
From miscellaneous sources.....	18,000,000
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	359,000,000
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EXPENDITURES.

Legislative establishment.....	\$3,421,812 40
Executive establishment.....	17,443,531 38
Judicial establishment.....	3,383,350 00
Military establishment.....	31,422,509 88
Naval establishment.....	18,946,088 95
Indian affairs.....	5,445,617 97
Pensions.....	30,480,000 00
Public works under Treasury Dep't ..	\$3,104,500 00
Public works under Interior Dep't ...	244,800 00
Public works under War Dep't	14,609,662 97
Public works under Navy Dep't	1,483,100 00
Public works under Agricultural Dep't,	26,500 00
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	19,468,562 97
Postal service.....	5,474,001 00
Miscellaneous.....	11,258,325 44
Permanent appropriations.....	126,281,974 00
Sinking fund.....	22,895,930 00
Interest upon the capital of the sinking fund.....	5,783,333 00
	<hr/>
	301,705,036 99
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These estimates show a balance of \$57,294,963 01 applicable to the payment of the principal of the debt, in addition to the sum of \$28,679,263 due on account of the sinking fund, or the sum of \$85,974,226 01 in all.

In the estimates for the next fiscal year I have not included in the receipts the premium on gold which may be sold, nor in the expenditures the premium which may be paid on bonds to be purchased in currency.

In the suggestions I have the honor to make in reference to the reduction of taxes, I keep in view two important facts: first, that the ability of the nation to pay at least fifty millions annually of the principal of the public debt shall not be impaired; and, secondly, that in the change of the revenue system no violence shall be done to the business interests of the country. While I do not undertake to state precisely the causes which have contributed to the public prosperity, there is no substantial reason for questioning the truth of the statement that the last few years have been the most prosperous in the history of the country; years without example in our own affairs, and without parallel in the affairs of any other Government.

It is practicable to dispense with all revenue from internal sources except that derived from stamps, spirits, tobacco, and malt liquors. These sources should furnish for the year 1872-'73 a revenue of about one hundred and ten millions of dollars, making a reduction of taxes of sixteen millions of dollars. The revenue from customs under existing laws, and from lands and miscellaneous sources, would amount to about two hundred and thirty-three millions more, making a total revenue for that year of three hundred and forty-three millions of dollars.

The expenses of the Government, not including the amount payable on account of the sinking fund, are estimated at \$273,025,773 99.

If to this sum be added fifty millions of dollars for payments on account of the public debt, including the amount due on the sinking fund, there remains a balance of about twenty millions, within which reductions may be made in the revenue from customs. This amount, added to the reductions proposed under the internal revenue laws, gives a total reduction of thirty-six millions.

In this view, I respectfully recommend to the consideration of Congress the reduction of the duties on salt to the extent of fifty per cent.; the duty on bituminous coal to fifty cents per ton; the reduction of the duty on raw hides and skins; and the removal of all duties from a large class of articles produced in other countries, which enter into the arts and manufactures of this country, and which are

not produced in the United States, and the revenue from which is inconsiderable. Such a list, with the revenue derived from each article, is in course of preparation, and will be submitted to Congress.

The removal of duties from a large class of articles used in manufactures, and the reduction of the duties upon coal, furnish an opportunity for a moderate decrease in the rates of duties upon those products whose cost will be diminished by these changes.

While nothing, as the consequence of legislation, could be more disastrous to the public prosperity than a policy which should destroy or seriously disturb the manufacturing interest of the country, it is still possible, by wise and moderate changes adapted to the condition of business and labor, to reduce the rates of duties with benefit to every class of people.

The average premium on gold for the year 1868 was 39.54 per cent.; for the year 1869 it was 32.56 per cent. premium; for the year 1870 it was 14.83 per cent. premium; and for the first eleven months of the year 1871 it was 12.1 per cent. premium. The value of the paper currency of the country during the years 1869 and 1870 was apparently appreciated by the increased use of paper money in the South, but chiefly by the establishment of the credit of the United States upon a firm basis. On the first of January, 1871, the last-named fact was fully accomplished, and since that time the appreciation of the paper currency has been due wholly to the increased demand for it in the business affairs of the country. The difference between the value of paper money at the present moment and its value on the first of December, 1870, may be attributed to the latter cause, and furnishes the best means which the country has yet had for ascertaining the quantity of paper currency which can be used and its value kept at par with gold.

The result of this test concurs with what seems to me to be the best opinion upon the subject, that the amount of paper money in circulation is still so great that it cannot be maintained in value at par with coin. There are two modes of relief: One is to reduce the volume of currency, as was recommended by me in my annual report submitted to Congress in December, 1869; the other mode is to await the growth of the country, and the increasing demands of business, which in time will produce the desired result.

The chief means of securing the end sought, without a reduction in the volume of currency, would be the use of paper money upon the Pacific coast. With this object in view, steps have already been taken by this Department for the purpose of ascertaining whether it is practicable to substitute paper for coin, and I have reason to anticipate that a change

may be made in the laws relating to National Banks tending to that result, which will not affect unfavorably the general character of the system.

It is my duty to call the attention of Congress to the importance of abolishing the system of shares in moieties, as far as the benefits inure to revenue officers, and other persons officially connected with the Government. This measure was recommended in my last annual report, and a statement was submitted to Congress showing the amount received by officers of customs, together with a bill increasing their salaries without any increase of appropriations from the Treasury; the sum now paid from moieties being quite sufficient to place the entire force upon a satisfactory footing in regard to pay.

During the last fiscal year the office of collector and surveyor of the port of New York each received from moieties the sum of \$49,215 69, and the naval office the sum of \$48,195 59.

In most of the cases the officers do not perform special services entitling them to the amounts granted, and importers and others whose acts are made the subject of investigation, complain, and, I think, with just reason, that the agents of the Government have a pecuniary interest in pursuing those charged with violations of the law. The Government ought to pay fair salaries, and rely upon the good faith of its officers for the performance of their duty. One of the difficulties which the Department has to meet, frequently is, that customs officers have an interest in proceedings for the discovery of fraud, the settlement of cases, or the prosecution of them, which is different from the real interest of the Government; and, as a necessary result, the conduct of such officers is open to suspicion, both on the part of those who are pursued by them, and the Government that they ostensibly represent.

It may be deemed expedient to leave the law as it now stands in regard to informers who are not officers, making it a penal offense for any officer to enter into an arrangement with an informer for any share of the proceeds of the information, and giving to the informer perpetual right of action for the recovery of any money or other valuable thing paid or given to an officer engaged in the discovery or prosecution of a fraud or legal wrong against the Government.

The report of the Comptroller of the Currency shows that one hundred and forty-five banks have been organized under the act approved July 12, 1871, providing for the issue of fifty-four millions of dollars of additional bank circulation, and that the sum of \$22,333,900 has been issued.

By virtue of the same act, the Treasury has redeemed \$22,230,000

of the three per cent. certificates then in circulation, leaving the sum of \$23,490,000 now outstanding. I take the liberty of suggesting, that it appears to me to be wise to leave the distribution of the circulation authorized by said act as it now stands.

Should the States that have already received their proportion of circulation be authorized to take what may remain, only a brief period will elapse before a demand will be made from States with limited circulation for an increase. It seems prudent, therefore, to retain the balance of the fifty-four millions for distribution in those States now having a claim to it, on the basis of equality of apportionment.

The details of the subscription to the Loan show that the National Banks, have, upon the whole, acted liberally—more than a hundred millions of dollars having been subscribed for by them on their own account.

It is not unreasonable to tender to these institutions the opportunity to subscribe for bonds under the act of July 14, 1870, to an amount equal to the deposits required of them as security for circulation, and to couple that offer with a provision that, after ninety days, to the extent that the offer may be declined, other banking associations may be formed in the several States where the existing banks shall have failed to make the required subscription, and the circulation transferred from such banks to the new associations.

The banks now organized cannot justly complain, if, having an opportunity to pursue the business upon the new bonds, and declining it, other associations shall succeed to their franchises and rights.

The business of the Bureau of Engraving and Printing has been carried on with diligence during the year, and with satisfactory results.

Although some efforts have been made at counterfeiting the special papers used by the Department, they have not been successful, and the specimens captured are so crude as not to excite serious apprehensions as to ultimate success.

Since the first of July, 1869, seventy million sheets of paper have been manufactured, all of which have been accounted for on the books of the Department.

I respectfully recommend that an appropriation be made for a new issue of national bank notes. Those now in use are much worn and very successful counterfeits of several denominations have appeared.

The public building used as a custom-house, court-house, and post office, at Chicago, was destroyed by the great fire on the 8th of October last. The exterior walls remain, and the building could be repaired, but, anticipating the growth of Chicago and the magnitude of its

public business, I advise the erection of a building suited to the wants of a first-class city.

It is important that a much larger piece of land should be obtained, either by addition to the present lot or by the purchase of another site. On the 18th of October last, I wrote a letter to Governor Palmer, asking him to recommend to the Legislature the passage of an act granting authority to the courts of the State of Illinois to condemn such land as might be required, in case the Government should be unable to obtain it by purchase at a reasonable price, payment to be made upon an appraisal. In every case, the site for a building erected by the Government for public uses should be large enough to separate it from all other structures, thus furnishing sufficient light for the prosecution of business, and adequate security also against fire and the depredations of lawless persons. It is hardly necessary to say, that in the existing condition of affairs at Chicago, it is important that an appropriation, available during the present fiscal year, should be made without unnecessary delay.

Since my last annual report, the Supervising Architect has completed the custom-house, court-house, and post office, at Portland, Maine; the court-house and post office at Des Moines, Iowa; the court-house and post office at Madison, Wisconsin; the appraisers' stores at Philadelphia; and the assay office at Boise City, Idaho.

It is now expected that the custom-house and post office at St. Paul, Minnesota; the marine hospital at Chicago, Illinois; the court-house and post office at Astoria, Oregon; the custom-house at Machias, Maine; the branch mint at San Francisco, California; and the custom-house at Cairo, Illinois, will be finished and ready for use by the first day of July next. At that time there will remain, in an unfinished condition, the court-house and post office at Columbia, South Carolina; the custom-house at New Orleans, Louisiana; the custom-house at Charleston, South Carolina; the court-house and post office at Knoxville, Tennessee; the custom-house and post office at Portland, Oregon; the court-house and post office at New York; the post office and independent treasury at Boston, and the custom-house and post office at Omaha, Nebraska.

The prosecution of these works—four of which are of great importance—in connection with public buildings to be erected at Chicago, and the erection of marine hospitals at Pittsburg, San Francisco, and New York, will, in my opinion, sufficiently occupy the Supervising Architect of the Treasury and the force at his command. I cannot, therefore, advise appropriations for other public buildings until some of those in process of construction shall have been completed. The points at

which the erection or repair of public buildings is most needed are Hartford, Indianapolis, Cincinnati, and St. Louis.

Under an act passed at the last session of Congress, appropriating two hundred thousand dollars for the purpose of more effectually securing life and property on the coasts of New Jersey and Long Island, a careful examination of the coast and of the life-saving stations has been made by experienced officers of the revenue service. In accordance with their report, proposals were invited and accepted for the erection of fourteen new houses on the coast of New Jersey and six upon the coast of Long Island. Repairs are also making upon the old houses on the Long Island coast.

The operations of the coast survey, which are under the administrative direction of this Department, have been prosecuted with the usual energy, as will be seen from the brief report of progress made by the Superintendent, in advance of the usual detailed report, with maps, annually submitted to Congress.

The survey of the Atlantic coast is now rapidly approaching completion, that of the Gulf coast is more than half finished, and the work on the Pacific coast is being pressed forward vigorously.

The estimates submitted substantially conform to the appropriations for the present year. An increase is asked for the item of extending the triangulation across the country to the Pacific ocean, great interest having been manifested by the authorities of the States traversed in the prosecution of the work.

The business entrusted to the Light-House Board is one of the most important branches of the public service in the control of this Department, and I am able to state that it is conducted with fidelity and with reference solely to the maritime interests of the country.

The estimates made by the Light-House Board exceed the appropriations for the present year but they appear to be necessary, and I respectfully recommend them to the consideration of Congress.

Under an act of Congress, approved July 30, 1870, Dr. John M. Woodworth has been appointed Supervising Surgeon of the Marine Hospital Service. His administration is satisfactory to the Department.

The average number of hospital patients for the fiscal year ending June 30, 1870, was one thousand and sixteen, and for the year ending June 30, 1871, one thousand one hundred and ninety-eight. The total cost of the service for the first-named year was \$405,624, being an average, for each patient, of \$1 09 per day; and for the latter year \$453,082 42, or an average of \$1 04 per day.

In the first-named year the hospital tax was \$168,153 70, and in the latter year it amounted to \$293,592 14.

The Supervising Surgeon is of opinion that pavilion hospitals are better adapted to the successful treatment of the sick than the ordinary buildings of brick and stone, while the expenses are only one-fourth as great.

In accordance with his suggestion, I recommend an appropriation of fifty thousand dollars for the purchase of land and the construction of a pavilion hospital at Pittsburg, Pennsylvania. The present hospital is situated in the vicinity of iron mills and railways, and as it can be sold for about seventy thousand dollars, the Government will be fully reimbursed for the cost of a new hospital, while the comfort of the patients will be promoted.

An estimate has been made that the sum of fifty thousand dollars will be sufficient for the construction of a pavilion hospital on Angel Island, in the Bay of San Francisco, sufficient to accommodate one hundred and fifty patients, and I also recommend an appropriation of that amount for that purpose.

I also respectfully renew the recommendation, made heretofore, for a pavilion hospital near the city of New York sufficient for the accommodation of two hundred patients.

The Revenue Marine Service employs twenty-five steam-vessels and eight sailing vessels. In addition to these, there are two large steamers upon the Lakes, not in commission, and two schooners upon the coast condemned as not fit for duty.

Of the six large steamers upon the Lakes, four only are in commission, and as the others are not needed, I have the honor to recommend that authority be given for their sale.

During the last year four iron steamers have been built—three of two hundred and fifty, and one of three hundred and fifty tons burden. Under the existing appropriation of two hundred thousand dollars, the Department is about to issue proposals for four small iron propellers, two for the Pacific and two for the Atlantic coast.

A further appropriation of two hundred thousand dollars is needed to enable the Department to carry into effect the recommendation of the Commission, whose report was approved by the Department and submitted to Congress May 26, 1870.

The plan recommended by the Commission, when fully adopted, will effect a reduction in the expenses of this branch of the service of about five hundred thousand dollars, or about thirty-four per cent. of the whole cost. The changes proposed contemplate the use of vessels of less tonnage, and a consequent reduction in the number of men employed.

The expenses of the Revenue Marine Service for the year ending

June 30, 1871, were \$1,251,984 52, against \$1,138,393 31 for the preceding year. The first quarter of the present fiscal year shows a reduction in expenses of \$83,201 42, as compared with the corresponding period of the preceding year.

At the date of my last report, a board of officers was in session charged with the duty of examining the officers then in active service. The report showed that five captains, ten first lieutenants, nine second lieutenants, and ten third lieutenants, were not qualified for duty. The persons found to be incompetent have been discharged, and their places have been filled by promotion and by the appointment of additional officers, after a competitive examination.

There are several officers in the service who, on account of age, are unfit for active duty. For the supply of officers in their places, and for the increase of the number of engineers, rendered necessary by the substitution of steam for sailing vessels, additional appropriations are required for the next fiscal year. This branch of the public service is, upon the whole, in a satisfactory condition.

During the third session of the 41st Congress a bill was submitted for the organization of a Mint Bureau. The bill passed the Senate but failed in the House of Representatives; though not, as I am informed, from any objection to the principles on which it was framed. I urgently recommend the passage of a similar bill at the present session of Congress. All the Mints and Assay Offices are nominally in charge of the Treasury Department; but there is not, by authority of law, any person in the Department who, by virtue of his office, is supposed to be informed upon the subject; and no one on whom the Secretary of the Treasury can officially rely for information or advice in the management of this important branch of the public business.

It is estimated that the internal commerce of the country is fifteen times as great as our external commerce, but the statistics are not trustworthy or complete; and I respectfully recommend that provision be made for obtaining such returns as will show fully the trade of the country upon the rivers, canals, lakes, and railways.

The report of Mr. Charles Bryant, Special Agent, who has had charge of the fur seal-fishery at the Islands of St. Paul and St. George, shows that the business has been conducted by the Alaska Commercial Company in substantial conformity to the terms of the contract. Mr. Bryant suggests an appropriation for the construction of a house upon each island, for the accommodation of the agents of the Government, who at present are dependent upon the company for board and shelter; and, although I am not aware that any evil has resulted from the

arrangement, it is manifest that it ought not to be continued. It is estimated that an appropriation of five thousand dollars will be sufficient for a suitable building on each island.

The agents charged with the management of the seal fishery have been detailed from the customs service. As the full number of agents authorized by law is needed upon customs business, I respectfully recommend that authority be given for the appointment of two agents and two assistant agents, and that a suitable appropriation be made for their salaries and expenses. The necessity of two agents at each island is apparent. The agents will desire to return to the States as often as once in two years; and, moreover, it is wise for the Government to have not less than four persons in its employment connected with the care of the people and the business of the islands.

Mr. Bryant also makes suggestions as to further provision for the care of the natives, which appear to me to deserve consideration.

I again call the attention of Congress to the importance of increasing the salaries of the Bureau Officers and Heads of Division in the Treasury Department.

At present there is great inequality and injustice existing. The First Comptroller receives a salary of five thousand dollars a year, while the Second Comptroller and other Bureau Officers, whose duties are hardly less important, receive only three thousand dollars. The Solicitor of the Treasury is upon a salary of three thousand five hundred dollars, while the Solicitor of Internal Revenue, whose duties are less important, receives a salary of four thousand dollars.

The Heads of Division, in the Internal Revenue, receive salaries of twenty-five hundred dollars per annum, while in every other branch of the Treasury they are selected from fourth class clerks, whose salaries are fixed by law at eighteen hundred dollars a year; although, for several years an appropriation has been made from which the Secretary of the Treasury, in his discretion, has increased the salaries in his own office to twenty-eight hundred dollars per annum.

It is not an exaggeration to say that the head of a division in charge of the loans, of the warrants, or of the sub-treasury accounts, occupies a position in which the country and the world are more concerned than in that of the Collector of Customs at New York; yet the latter officer receives more than fifty thousand dollars a year, while it is with difficulty that the former is able to secure the inadequate sum of twenty-eight hundred dollars.

The same remark might with truth be made of several Bureau Officers, and of persons in the office of the Treasurer of the United States.

In this connection, I also recommend an increase of the salary of the Supervising Surgeon of the Marine Hospitals.

I think it my duty to speak of the provisions of the act creating the Department of Justice, by which the Solicitor of the Treasury and the Solicitor of the Internal Revenue Office are made officers of that Department. The proper and essential duty of the Solicitors is to give advice to the Secretary and Bureau officers upon questions which arise in the daily business of the Department. Under the existing system, the Attorney General is made nominally responsible, while, in fact, he ought to be exempt from all responsibility for the advice given by these officers, that, upon a reference to him of questions which may have been previously considered by them, he may be free to revise or reverse their action. These officers should receive their appointments through the Treasury Department, and be responsible to its head. It is a fundamental error in administration, to place in one of the Departments officers deriving their appointment from another Department.

Should the Attorney General transfer these officers to the Department of Justice, as appears to have been contemplated by the act, this Department would be deprived substantially of their services. I earnestly recommend the restoration of these officers to their former positions in the Treasury.

The examination of persons designated for clerical service, and for promotion in the Treasury Department, has been continued, with beneficial results; and the examination is even more exacting in its requirements than at the date of my last annual report. Means will be taken to extend the system, with such modifications as the difference of duties may suggest, but with equal efficiency, if possible, to the principal custom-houses, and to other branches of the public service under the control of this Department.

On the 28th of February last public notice was given that on the 6th of the following March books would be opened in this country and in Europe for subscriptions to the National Loan, under the act approved July 14, 1870, and the conditions on which the subscriptions would be received were also made known. All the national banks, and a large number of bankers both in this country and in Europe, were authorized to receive subscriptions. The first preference was given to subscribers to the five per cent. bonds, within the limit of two hundred millions of dollars. On the 1st of August the subscriptions amounted to sixty-five millions seven hundred and seventy-five thousand five hundred and fifty dollars, chiefly by the national banks.

Under date of July 14, 1871, a despatch was received from Hon. William A. Richardson, Assistant Secretary of the Treasury, then in London, stating that certain bankers in Europe proposed to take the remainder of the two hundred millions of five per cents. upon certain conditions. This proposition was considered and modified, and early in August an agreement was made with Messrs. Jay Cooke & Co., representing bankers in Europe and in the United States. By the terms of the agreement, the parties represented by Messrs. Jay Cooke & Co. had the right to subscribe for the remainder of the two hundred millions of said bonds, by giving notice thereof, at any time previous to the first of April next, and by subscribing for ten millions at once and for an average of at least five millions of dollars of bonds per month during the intervening time, subject to the right of the national banks to subscribe for fifty millions of dollars within sixty days from the 25th day of August.

It was also agreed that the subscriptions should all be made through national banks, and certificates of deposit therefor issued by said banks to the Secretary of the Treasury, bonds to be lodged with the Treasurer of the United States for the amount of the deposit. By a printed circular issued on the 10th of August, 1871, it was announced that national banks making or obtaining subscriptions, payable in coin, would be designated by the Secretary of the Treasury as depositaries of public money, on the usual condition of placing in the hands of the Treasurer of the United States bonds of the United States for the security of such deposits; and that, at the commencement of each month, notice would be given of the redemption of an amount of bonds equal to the amount of subscriptions in coin for the preceding month, interest to cease in ninety days from the date of such notice.

It was also stated in the circular that, as the bonds called should mature, the deposits would be drawn from the several banks proportionately.

It was further agreed that the subscribers to the loan should receive as commissions whatever might remain of the half of one per cent. allowed by law upon the two hundred millions, after paying the cost of paper for the bonds, for engraving, printing, advertising, delivery, and all other expenses of the same.

Under this agreement the books were opened in this country and in Europe, and by the last of August subscriptions were obtained for the entire amount offered.

On the first of September public notice was given that certain five-twenty bonds, to the amount of one hundred millions of dollars,

of the issue of 1862, specified by number as nearly as was practicable, according to the provisions of the act of July 14, 1870, would be paid on the first of December, and that the interest would cease on that date. Of the bonds so called, more than eighty millions of dollars are now in the possession of the Department; of which amount, seventeen millions of dollars have been paid in coin, and the remainder have been received or deposited in exchange for the five per cent. bonds.

Previous to September five per cent. bonds to the amount of \$62,139,550, had been issued and payment made therefor. The work of delivering the bonds subscribed for at that date is now going on, and under such circumstances as to leave no doubt that the whole business will be concluded in a brief period of time.

By the act establishing the national banking system, the Secretary of the Treasury was authorized to make them depositaries of any public money, except receipts from customs; and the act authorizing the refunding of the national debt directed the Secretary of the Treasury to give three months' notice of the payment of any bonds which, in such notice, might be specified and called for payment. In the same act it was provided that the money received for the new bonds should be used only in payment of bonds outstanding known as five-twenty bonds. The statute proceeded upon the idea that the holders of five-twenty bonds should receive three-months' interest upon their bonds after notice should be given by the Government.

As this notice could be given safely only upon subscriptions already made or secured, the general necessary result, even in case the money were paid into and held in the Treasury of the United States, would be a loss of interest for three months.

On the 1st of August last the demand for the new bonds had nearly ceased; but, by the agreement referred to, the necessary loss to the Government incident to the refunding of the public debt was made the means of securing subscriptions to the amount of about one hundred and thirty millions of dollars.

The banks, or those represented by the banks, derived an advantage in the use of the amount of their subscriptions for three months, but this without other loss to the Government than what was incident to the negotiation of the loan under the law.

I am informed by Judge Richardson, and such is my own opinion, that the most serious obstacle in the way of negotiating the four and four-and-a-half per cent. bonds in Europe is the inadequacy of the commissions allowed. When the circular of the 28th of February last was issued, one or two leading European bankers declined to act as agents,

and I am persuaded that others who accepted the agency failed to give that attention to the business which would have been bestowed upon it had the commissions corresponded more nearly to those usually received by them for the negotiation of public loans. The credit of the country is fully established in every financial centre of Europe, and the bonds of the United States can be negotiated at their market value in a larger number of cities than the bonds of any other country in the world. Under these circumstances, I think it my duty to advise such an allowance for commissions upon the four and four-and-a-half per cent. bonds as will secure the negotiation of them with the least possible delay. It needs no analysis of the subject to show that the interests of the country will be greatly promoted by the proceeding, even though the commissions should seem to be unnecessarily large. I also recommend that authority be given for the payment of interest in London. This can be done without the least cost or risk to the Government.

Returns for the fiscal year 1870-'71 show that the ocean commerce of the United States is passing rapidly into the hands of foreign merchants and shipbuilders. In the year 1860, nearly seventy-one per cent. of the foreign commerce of this country was in American ships; in 1864, it had fallen to forty-six per cent.; in 1868, to forty-four per cent.; and in 1871, it is reported at less than thirty-eight per cent.

The loss of the shipping of the United States is due chiefly to two causes—first, the destruction of American vessels by rebel cruisers during the war; and, secondly, the substitution of iron steamships for the transportation of freight and passengers upon the ocean, in place of sailing vessels and steamships built of wood.

When the war opened English builders of iron steamships had acquired considerable proficiency, and since that period the art has been carried to higher perfection in Great Britain than in any other part of the world. It is stated that the superiority of British machinery and knowledge of the business by British mechanics give an advantage over American shipbuilders equal at least to ten per cent. upon the cost of construction. They possess additional advantages in the cost of labor, the cost of iron, coal, and other materials, and in the rate of interest upon the capital employed, equal in all to about twenty per cent. more, so that the difference in favor of British shipbuilders is at least thirty per cent.

In considering the means for the restoration of our ocean commerce, two facts must be accepted: First, that it is useless to attempt to revive it with wooden ships; and, secondly, that iron ships moved by sails

cannot compete with iron ships propelled by steam. Hence, the only practical questions for consideration are these: Can the construction of iron steamships be established in this country, and, if so, by what means?

The trans-ocean commerce of the United States would employ about six million tons of shipping, if each vessel made but one round voyage in a year. The value of our exports and imports has already reached the sum of nearly eleven hundred millions of dollars, and during the present decade it will exceed fifteen hundred millions of dollars annually. The annual returns for freight and passengers are about one hundred millions of dollars.

The history of the loss of our commerce, as shown in the statistics already given, renders it certain that without some efficient action on the part of the Government, the entire foreign trade of the country will soon pass into the hands of our rivals.

The monopoly of the trade between the United States and Europe by foreign merchants and shipbuilders carries with it the monopoly of shipbuilding for the entire world, and, as a consequence, the Atlantic trade, the trade of the Pacific, and the seas adjacent thereto, will be carried on in English-built steamers.

An alteration of the law by which foreign-built vessels may be admitted to American registry will furnish no adequate relief. On the contrary, the change would stimulate shipbuilding in England, while the prospect of establishing it on this continent would diminish in proportion to the prosperity of the business in the ship-yards of our rivals.

In view of the facts of our extensive coast upon the Atlantic and Pacific oceans, and our position with reference to Europe and Asia, the country ought not to be satisfied with any policy which does not look to the establishment and continuance of shipbuilding in the United States, the encouragement of our own seamen and merchants, and the control of so much, at least, of the commerce of the world as is derived from the export of our products and the importation of articles required for domestic consumption.

The removal of duties upon foreign articles used in the construction of iron steamships, or the allowance of a drawback equal to the amount of duties paid, will not, in the existing condition of things, secure the reestablishment of the business. But were it otherwise, the removal of duties or the allowance of drawback raises practical questions of great difficulty, while any concession by an indirect process is likely in the end to prove unnecessarily expensive to the country. Several of the

existing lines of European steamers were established by the aid of Government subsidies. They are still encouraged by the same means; and it is unreasonable to expect that our merchants and shipbuilders can successfully compete with this formidable combination, unless they are supported by the power of their own Government.

After careful consideration of the whole subject, I am prepared to advise the passage of a law guaranteeing to persons who may employ in the foreign trade American-built first-class iron steamships of not less than two thousand tons burden each, an annual payment, for the period of five years, of the sum of thirteen dollars per ton. The subsidy should be proportionately less to vessels of lower classification.

In making this recommendation, I do not assume that there is no other practicable method of restoring our commerce, but I present it as the method which appears to me to be the most efficient and economical.

Connected with this plan, it will be wise to consider whether the ships may not be so constructed as to be available for naval purposes, and, in case of war, subject to the right of the United States to take them upon payment of their appraised value. A similar suggestion was made by the Secretary of the Navy in his report for the year 1869. They should also be required to carry the mails upon moderate terms, or in consideration of the subsidy.

The use of sailing vessels and steamers built of wood may be continued successfully in the coasting trade, the trade with the British possessions, and upon the rivers and lakes of the country; but any effort to regain our former position upon the ocean by their agency must end disastrously.

I entertain the opinion that the policy suggested will be effectual, and that in a comparatively short period our mechanics and artisans will acquire equal skill with those of England, and that we shall not only have the aid of the best machinery now in use elsewhere, but that important improvements will be made, calculated to place the country in a position of superiority.

We shall also be able to test practically the quality of American iron, which, for the purpose of shipbuilding, is represented as better than that used in Great Britain.

If it shall appear, as is claimed, that American iron is about ten per cent. better than the iron used in England, an advantage will be secured, not only in the diminished cost of the vessels, but also in the increased tonnage capacity of American ships of equal dimensions over those constructed with inferior materials.

Accepting as a truth, established by experience, that the ocean com-

merce of the world is to be carried on in iron steamships, we must consider and decide whether the United States shall disappear from the list of maritime nations, or whether, by a determined and practical effort, we can regain the position which we occupied previous to the late rebellion.

GEO. S. BOUTWELL,
Secretary of the Treasury.

Hon. JAMES G. BLAINE,
Speaker of the House of Representatives.

REPORT
.OF
THE SECRETARY OF WAR.

REPORT

OF

THE SECRETARY OF WAR.

MR. PRESIDENT: The reorganization of the Army required by the act of July 15, 1870, the provisions of which were alluded to in my last annual report, has been accomplished. The enforcement of that portion relating to a reduction of commissioned officers demanded strict investigation of the records of the military conduct and service of supernumerary officers, and forced upon the Department an unpleasant duty. It is believed, however, that the decisions finally reached were fair, impartial and for the good of the service. In accordance with the same act the number of enlisted men was on July 1 reduced to 30,000; indifferent soldiers were discharged, the standard of recruits was raised with a view to improving the character of the rank and file, and the following table of organization was established :

Enlisted men of engineers.....	301
Enlisted men of ordnance	475
Ordnance sergeants at posts.....	200
Military Academy band.....	24
60 enlisted men per company for 55 companies artillery.....	3,300
84 enlisted men per battery for 5 batteries light artillery.....	420
81 enlisted men per company for 120 companies cavalry.....	10,080
67 enlisted men per company for 250 companies infantry.....	15,000
Non-commissioned staff of regiments.....	200
	30,000

The staff of general officers was also reduced to the simple requirements of the Army in time of peace, and the line officers thus relieved from detached duty were ordered to their regiments where they could be of more benefit to the service.

The total expenditures for the fiscal year ending June 30, 1869, were \$80,644,042 76; the expenditures for the year ending June 30, 1870, were \$57,655,675 40, which sum includes \$3,697,500 for river and harbor improvements. The expenditures for the year ending June 30, 1871, were about \$40,000,000, including for river and harbor improvements \$3,945,900. Thus during the year 1869-'70 the reduction in expenses of the War Department amounted to \$22,988,367 36, and during the year 1870-'71 a further reduction of \$17,655,675 40 was made. For the next fiscal year 1871-'72 there is appropriated \$36,530,776, including for river and harbor improvements \$4,407,500.

The total estimate for military appropriations for the fiscal year ending June 30, 1873, is \$32,415,472 85. Of this estimate the sum of \$1,153,607 05 is necessitated by the prohibition of the use of unexpended balances of former years, thus requiring estimates for reappropriation of such sums as have reverted to the Treasury under the fifth section of the act of July 12, 1870. The estimate of the Chief of Engineers for fortifications, improvement of rivers and harbors, public buildings and grounds and Washington Aqueduct, are submitted separately, as presented by that officer, as follows: Fortifications and other works of defense \$3,255,500; for river and harbor improvements \$9,930,200; and for public buildings and grounds and Washington Aqueduct \$446,704.

Up to this date, during the current fiscal year, there has been paid into the Treasury, as realized from the sale of arms and from other sources, during the current fiscal year, \$21,766,403 07.

Under the act of July 27, 1861, providing for the adjustment and payment of the claims of the several States for enrolling, subsisting, and other expenses incurred by them for troops called into the service of the United States, these claims were paid out of any money in the Treasury not otherwise appropriated. The act of July 12, 1870, repeals the appropriation clause of the act of July 27, 1861, and requires the proper Department to submit estimates for these expenses, in the usual manner. I have accordingly submitted an estimate of \$3,000,000 for this purpose, that being the amount designated by the Third Auditor of the Treasury as being required for the settlement of claims now pending in his office for the next fiscal year.

The reports of the General of the Army and of the division and department commanders, herewith submitted, will convince the country that the officers and men of the Army have performed the duties devolving upon them faithfully and well. Though these duties, resulting from the determination of the Government to enforce the laws for the collection of the revenue and for the suppression of armed insurrection, have few agreeable features, they are performed with that cheerful energy which is the result of discipline. The records of the Department show that one hundred applications for troops for various purposes, and for military protection, have been made since January 1, 1871, all of which, where the necessity required it, have been promptly responded to.

It is with great embarrassment and difficulty that the appropriations made at the last session of Congress—reduced as they were below the estimates of the Department—can be so economized as to answer the pressing requirements of the service. The operations of active warfare in Arizona, in connection with Indian difficulties there, are such as necessarily require large expenditures, and the causes which have produced this necessity were not anticipated by Congress when the appropriations were made. The officers in charge of these operations—General

Schofield, commanding the Division of the Pacific, and Colonel Crook, in immediate command of the Department of Arizona—have united with this Department in endeavoring to retain the expenses at the lowest possible limit, and have used the most judicious efforts in this direction, and the conduct of Colonel Crook in his administration of the affairs of his department has received my full approval. While, therefore, the full appropriations asked should be given, continued endeavor will be made to prevent any expenditures beyond those absolutely essential.

I recommend that the *extra* lieutenants now authorized by law to serve as regimental adjutants and quartermasters in the artillery, cavalry, and infantry regiments, as provided by sections 2, 3, and 4 of the act of July 23, 1866, be discontinued as vacancies occur in those grades. This would effect an ultimate reduction of eighty lieutenants; would result in a yearly saving, if the reduction should be completed, of nearly \$160,000, and would be of no detriment to the service.

It is further recommended that the grade of quartermaster-sergeant for the companies of cavalry, infantry, and heavy artillery be abolished. The duties of this non-commissioned officer before the late war were usually discharged by the first sergeant, and the present strength of a company is such that a return to the old system in this respect can well be made.

With regard to the grades of enlisted men known as company artificer and company wagoner, the state of the service is now such as to justify the recommendation that they too be discontinued and their duties devolved upon a smaller number of private soldiers, detailed for extra-duty service and employed under direction of the Quartermaster Department. Should this recommendation be adopted, 1,165 enlisted men would be dispensed with, at a gross yearly saving of \$412,740. From this deduct the probable cost of extra-duty men, estimated at two-thirds the number of artificers and wagoners—\$72,240—and the net saving will be over \$340,000.

By the act of March 3, 1863, the first six regiments of cavalry are each allowed one veterinary surgeon at a compensation of \$75 per month. By the act of July 28, 1866, the four other cavalry regiments are provided with the same organization, with the additional allowance of one veterinary surgeon to each, at a compensation of \$100 per month; that is to say, two veterinary surgeons are allowed to each of the latter regiments, one at a salary of \$75 per month and the other at \$100. To remedy this defective organization, I recommend that two veterinary surgeons be authorized for each cavalry regiment, at a compensation of \$100 per month, and that the provisions of the acts above cited be repealed.

In the general regulations of the Army, of 1863, a plan is presented by which soldiers who are frugal enough to save their pay shall have a safe deposit for it. The outline is simply this: Not less than five dollars may be deposited at any one time with the paymaster, at pay-day

when a check-book will be given the soldier in which the amount of deposit will be entered. These deposits cannot be drawn till the discharge of the soldier. They are not subject to forfeiture by sentence of court-martial, but belong to the personal estate of the soldier, voluntarily confided by him to the trust of the United States, until he receives final payment on discharge. The benefits of this plan are various. It prevents the vicious practice of confiding money to commissioned officers for safe keeping, which injures discipline by the invariable disputes engendered, and it avoids the lumbering of the pay-rolls by constant entry of pay not drawn.

By the restriction contained in section 7, act of July 12, 1870, which was interpreted by the Treasury Department to apply to these deposits, it became necessary to issue an order for rescinding this regulation, and to cause all the deposits to be drawn from the Treasury by soldiers holding check-books. The amount was considerable, and it is feared many men were induced to desert by thus coming into possession of unusually large sums during their term of service, instead of receiving them when discharged. It is recommended that provision be made to meet this unexpected application of the legislative restriction that the benefits of the regulation may be restored to the soldier.

The law authorizing the enlistment of men who are eighteen years of age, and by its language "the oath of enlistment taken by the recruit shall be conclusive as to his age." The appeals to the Department for the discharge of soldiers are almost numberless. The force of clerks employed upon this branch of office duty is not sufficient to answer the repeated applications for discharge, which fill the Department mails, and the stereotype refusal which must in most cases be given only stimulates the applicant to obtain renewed appeals from persons of influence and character, who willingly apply to the Department, with a request for assistance, without reflecting upon the embarrassment which is given, or upon the cost of a result so easily recommended and so difficult to justify. The enlistment of each recruit and the cost of transportation to his regiment involves an average expense of \$80 in each case. By his discharge this amount is a total loss to the Government.

The greater number of those for whom this costly favor is asked are under the age of 21 years, and in this connection I recommend that the law regarding enlistments be amended, and that no recruit be permitted to enter the service whose age, by his own oath, is not shown to be over 21 years—the oath, as now, to be taken as conclusive.

Experience shows that the age of enlistment for music boys can, with advantage, be reduced, and it is advised that the law be so amended that hereafter enlistments in that class of recruits may be made at the age of twelve years.

It was found impossible to prepare, in time for submission to Congress at its last session, a system of regulations for the administration of the affairs of the Army, as contemplated by the act of July 15, 1870. A

board of competent and experienced officers has been for some months diligently engaged in the compilation of a code of regulations, and the work is rapidly approaching completion.

Desertions during the past few months have largely increased. The reports received at the Department indicate that the reduction of the pay of soldiers from sixteen to thirteen dollars per month has contributed greatly to this result, as far as those men are concerned who enlisted prior to July 1, 1871, the date of reduction.

The board of officers directed to investigate the subject of military prisons and prison discipline in the British army, visited, last summer, the only military prison now in Canada, viz, the one at Quebec, and through the courtesy of the Inspector, Colonel H. F. Williams, were enabled to witness its practical workings. The board were very favorably impressed with the good results obtained from this system, which has now been fifteen years in operation in the British service, and recommend its adoption in our own. I invite the attention of Congress to this subject, believing it to be of great importance to the efficiency of our Army, which is greatly impaired by the inadequate and imperfect means of punishment now practiced. By having the pay of the convicts forfeited to the prisons, but little, if any, additional means would be required to support them after they were put in operation. The report of the board is full of interest and will hereafter be transmitted to Congress.

The retired list of the Army is now limited to 300. The endeavor has been to equalize the selections for that list from both the higher and lower grades of the officers entitled to be placed upon it, so that it may not be filled to an unreasonable extent by officers of high rank and consequently greater compensation. There have been sixteen deaths of retired officers during the past year.

By the act approved September 28, 1850, appropriation was made of \$10,000 for purchasing, walling, and ditching a piece of land near the city of Mexico, for a cemetery for such of the officers and soldiers of our Army as fell in battle or died in and around that city during the Mexican war, and for the interment of American citizens who have died there.

In December, 1869, a report was made by the vice-consul of the United States at the city of Mexico, to the effect that, in consequence of neglect and the want of means for repairs, many depredations were being committed, and that the cemetery presented a lamentable appearance of dilapidation. An appeal was made to this Department for funds to the amount of about \$1,150 to be sent to the consul to enable him to restore the cemetery to a condition creditable to the United States Government. The War Department was fortunately able to meet the temporary demand, but could not comply with a further suggestion for the employment of a superintendent at a salary of \$50 per month instead of \$20, the rate heretofore paid and which is deemed insufficient. By the act of July 21, 1852,

there was appropriated \$1,412 34, and by the act of August 31, 1852, \$3,000 for the purchase of the cemetery, under the direction of the President, and these sums were all disbursed by the Department of State. It is recommended that, as the general subject of national cemeteries is now administered by the War Department, a special act be passed placing this cemetery upon the same footing as other cemeteries, with a regularly appointed superintendent, and that a sufficient portion of the appropriations for national cemeteries be made applicable to the repair and preservation of the one in question. The latest report of the condition of the cemetery shows that, with the temporary aid afforded by this Department, its condition was very materially improved. An appropriation of \$1,200 is asked by the United States consul to complete the repairs and to construct an artesian well for irrigation, to preserve the shrubbery and save the annual tax for water.

By the tenth section of the act of July 15, 1870, the Secretary of War was required to investigate into what are known as the Montana Indian war claims of 1867, and to report to Congress the names of the persons entitled to relief, together with a statement of the facts and sums upon which such report may be based. The investigation was confided to an inspector general of the Army, whose report, setting forth the nature and amount of the claims and the amount required for an equitable settlement of them, was submitted to Congress at the last session and commended to favorable consideration.

To complete the investigation, there remained to be submitted a list of the persons entitled to relief and a statement of the award equitably due to each claimant. This list, when nearly finished, was, with most of the papers connected with the case, destroyed in the late fire at Chicago. A greater part of the original vouchers, however, had been returned to their owners after certified copies had been taken, and new copies can consequently be obtained. The claimants have been called upon by advertisement to furnish such copies, or, in default thereof, to file statements of their claims, and in this way the lost evidence will be measurably renewed. With these papers and such data as survived, a new report of awards can be made which will probably prove as reliable as the one destroyed. This report will be laid before Congress without material delay, its early preparation depending wholly upon the promptness with which claimants respond to the invitation to replace their evidence.

Under the joint resolution approved May 7, 1870, authorizing and empowering the Secretary of War to select and set apart for a permanent military post so much of the military reservation of Fort Snelling, not less than 1,000 acres, as the public interests might require for that purpose, and to quiet the title to said reservation, and to settle all claims in relation thereto, and for the use and occupation thereof upon principles of equity, I have selected and set apart for a permanent military post at Fort Snelling 1,521 $\frac{20}{100}$ acres, embracing the fort and buildings pertaining, and in full settlement and release of all claims in rela-

tion thereto, and for the use and occupation thereof, have conveyed to the purchasers of the property the remainder of the reservation, amounting to 6,394 $\frac{3}{100}$ acres.

The proceeds of sales of clothing from June 30, 1870, to the present date amount to the sum of \$1,875,728 84, all of which, as collected, is turned into the Treasury and cannot be used by the Department. Some of the purchasers have not been able, on account of the disastrous effects of the Chicago fire to meet their engagements promptly, but the time of payment has been extended. A great amount of old clothing and equipage is unfit for Army use, and hence larger appropriations will become necessary. The cost of transportation for this year has been about \$1,500,000, which is but little less than for the previous year. The reduced Army is compelled to increased activity to compensate for its loss in numbers.

The appropriation for barracks and quarters has not been sufficient to shelter the Army in a manner essential to its comfort and health, and hence it is earnestly desired that the appropriation asked for that purpose may not be reduced.

Of the southern railroads which were allowed to purchase rolling stock and other railroad supplies from the United States, twenty-seven have paid in full, and twenty-four are still in debt to the Department in the sum of \$4,724,350 53.

In the office of the Quartermaster General large numbers of miscellaneous claims for transportation and for stores taken and used by the Army in certain States and Territories, under the act of July 4, 1864, have been filed and final action had as far as possible. These claims amount to many millions of dollars, and the large interests involved require that there should be more care taken of these important records than can be given them in the present building, in which a fire would be disastrous.

The number of graves in national cemeteries is 317,850, including 2,225 added during the year. The cemeteries cover an area, in the aggregate, of about 1,800 acres of land, acquired at a cost of \$170,000.

The attention of Congress is asked to the loss and embarrassment resulting from the condition of the title to sites of military posts in Texas. The law forbids the purchase by the Secretary of War of any lands without special authority from Congress. New posts on the remote and unsettled frontier of that State have generally been located on the public lands belonging to the State, as there are no public lands available owned by the United States in Texas. As soon as this Department begins to erect shelter for the troops, speculators enter these lands, and hence claims arise for rent and timber to an amount far beyond their value. An act authorizing the Department to quiet title to sites already occupied, and to purchase such as may hereafter be required, is necessary to remedy the evil.

The report of the Commissary General of Subsistence shows that the

Army has been well supplied during the past year. I agree with him that according to the varying necessities of troops stationed in the different climates of the country, there should be authorized for issue substitute articles, so that the food of the soldier may be at times varied from the regular ration. Since the last annual report a detailed statement has been furnished the Department of the Interior of the expenses incurred in the fiscal year of 1869-'70 by the Subsistence Department in furnishing supplies for Indians, which shows the amount to have been over \$1,600,000, of which \$1,200,000 has been repaid by transfer at the Treasury. It is desirable that appropriations for the subsistence of Indians, when necessary, be made for the disposition of the Interior Department, as the subsistence fund of this Department, based upon the appropriation actually necessary for the support of the Army, is not large enough to allow any portion to be diverted from its legitimate use without embarrassment to the service.

Owing to the deficiency existing in the clerical force of the Surgeon General's Office, a large number of official demands for information from the records of the office for the settlement of pension and other claims have remained unanswered. Under the act of Congress authorizing the appointment of hospital stewards, that force has been strengthened, and it is hoped that the accumulated work will be rapidly disposed of. There were 206 military posts requiring medical attendance on July 1, 1870. The number of medical officers is insufficient for the service, and I renew the recommendation that the law prohibiting promotions and appointments in that corps be repealed.

Part First of the Medical and Surgical History of the War is near completion, and will be laid before Congress during its coming session, when it is hoped sufficient appropriation will be made to continue the publication of the remaining parts. The report of the Medical Statistics of the Provost Marshal General's Bureau, the compilation of which was authorized by the act of July 28, 1866, is also nearly completed and is in process of being printed at the Government Printing Office. It is expected that the entire report will be printed and ready for distribution during the approaching session.

The Corps of Engineers during the past year has been actively engaged upon the works for the defense of our sea-coasts, on river and harbor improvements, and in surveys and reconnaissances and construction of light-houses. With the appropriations granted for fortifications in our principal harbors, these works along the Northern Atlantic and Pacific coasts have been pushed forward in their modifications as rapidly as the circumstances would permit, and already the batteries are beginning to assume the character needed by the requirements of modern warfare. The modifications referred to look to the strengthening of our works by the introduction of heavy earthen batteries for the largest guns and mortars.

Since the last report the battalion of engineers has been reduced to

354 enlisted men, and constitutes an efficient body of troops, and is carefully instructed and drilled in its duties. The engineer posts and depots of Jefferson Barracks and Yerba Buena Island have been broken up and the troops are now concentrated at Willet's Point and West Point, New York. Besides assisting in the instruction of the cadets of the Military Academy, the battalion of engineers constitutes the school for the trials with torpedoes for the defense of our harbors, and takes charge of the depots for the bridge-trains and equipage and engineer tools for the use of the Army in general. The appropriation asked for torpedoes and other purposes at the engineer depot at Willet's Point and recommended to Congress.

A visit made to Willet's Point in September last gave me an opportunity for inspecting closely the management of the post, and for observing the advantages offered the men in drill and discipline, and in the education necessary for that arm of the service. The result was very gratifying. The thorough mode of instruction and the perfected drill of the battalion deserve commendation.

Satisfactory progress has been made in the prosecution of works for the improvement of rivers and harbors, and of the surveys connected therewith. The annual report of the Chief of Engineers contains a detailed account of the progress and condition of these works, and of the results of the surveys ordered by Congress. This report also contains information concerning the public buildings and grounds and the Washington Aqueduct.

Proper measures have been taken to carry out the joint resolution of February 21, 1871, in relation to the establishment of water-gauges, and making daily observations of the rise and fall of the Lower Mississippi and its chief tributaries.

Under the act of April 4, 1871, for the appointment by the President, of a commission to examine and report on the Sutro tunnel, Lieutenant Colonels H. G. Wright and John G. Foster, of the Corps of Engineers, and Professor Wesley Newcomb, a mining engineer, were thus appointed, and Captain W. R. King, Corps of Engineers, was directed to act as secretary to the commission. The commission has completed the investigations at the tunnel and the mines of the Comstock lode, and is now preparing to report.

In the survey of the lakes, operations were carried on in Lakes Superior, Michigan, St. Clair, and Champlain, and the progress of the work in the field and office has been highly satisfactory. The geological survey along the central route of communication with the Pacific coast has been actively continued, and the publication of the results, already begun, is looked for with much interest.

During the fiscal year small-arms and ordnance stores to the amount of \$10,000,000 have been sold, and the entire proceeds, except a small sum retained to meet expense of preparing other stores for sale, have passed into the Treasury beyond the control of this Department. The

operations at the arsenals have been confined to the manufacture of supplies required by the troops, to the care of stores on hand, and to the manufacture of one or two experimental gun-carriages. It is hoped that Congress will grant the appropriations asked for to carry out the plans for the continuance of the work at the great arsenal of construction for the Mississippi Valley at Rock Island. Several kinds of experimental rifles and carbines, as recommended by the St. Louis board, have been manufactured at Springfield armory for comparative trial in the field. An inspection of that armory, not long since, satisfies me of the necessity for continuing the appropriations for its maintenance and support. The ability of its present administration especially commends this well-appointed armory to the attention of Congress.

Sufficient information will doubtless be derived from the use of the experimental arms in the field, to enable a board to recommend a breech-loading system for adoption. The armament of State troops should be like that of the national forces, who now use breech-loading small arms. The reserve of 10,000 arms of that kind now on hand is not half sufficient to supply the States upon quotas now due.

Attention is called to the recommendation of the Chief of Ordnance concerning the repeal of the act prohibiting promotions and appointments in the Ordnance Corps.

An increase of the annual appropriations under the law of 1808, providing for arming and equipping the militia is urgently required.

The small clerical force allowed the office of the Judge Advocate General of the Army is not sufficient to perform the great amount of labor required to copy, on the demand of persons who have been tried, the voluminous proceedings of the courts-martial in their cases. The duty is an imperative one under the law, but the force is inadequate to its accomplishment, as may easily be seen upon an inspection of the record of the vast amount of work performed in that office. I recommend the continuance of the appropriation by which special copyists could be employed for this purpose.

At Fort Whipple, Virginia, instruction has been given in the meteorological duties and studies required at the signal-stations for observations and reports of storms throughout the United States, and in military signaling and telegraphy to officers of the Army and Navy. During the year the observation and report of storms has been necessarily rather in the process of organization for future success than as completely organized. A duty without precedent has had to be originated in all its details of plans and discipline—the observation, reports, and mode of making public the necessary deductions and reports. The progress made has been fully as great as could have been anticipated, and has secured valuable results and gives promise of extended usefulness.

By a comprehensive telegraphic organization each of the signal-stations is in telegraphic communication with the Signal Office at Wash-

ington, and from each of them daily and nightly weather reports are received at the Department. These reports are studied, bulletined, and charted at the office of the Chief Signal Officer, and are furnished at the same time to most of the principal cities and ports of the country. The deductions from the study of the reports are instantly telegraphed to the press and bulletined as soon as practicable at the observing offices, in board of trade rooms, merchants' exchanges, and other prominent places, and during the past year there have issued in this manner from the Chief Signal Office and the observing stations fifty thousand charts.

In the month of October the display of cautionary signals, announcing the probable approach of storms, was commenced, for the first time in the United States, at twenty ports upon the lakes and Atlantic and Gulf coasts. These signals are arranged to be displayed at any hour of the day or night, upon the receipt of telegraphic orders from Washington.

While the service has been rapidly organized and pressed to these results, each step has been taken only when the public mind seemed to be educated and prepared for it, and the public necessity demanded it. The average time of the receipt by telegraph of the reports and observations made simultaneously from all the stations throughout the United States has been 45 minutes. The average time elapsing between the moment at which telegrams were sent to the office at Washington from the most distant stations, to that at which the deductions are made, published, and issued to the press, has been 90 minutes.

Of the deductions published from the office, 69 per cent. are, after a careful examination of the statistics, considered to have been fully verified. This percentage, increased by those regarded as partially verified, will make an aggregate of 90 per cent. of average verifications.

It has been the policy of the Department to diffuse, as widely as possible, for the use of co-operating institutions, and for scientific study everywhere, the meteorological information collected at its stations and upon its records. It is believed that the United States now possesses a service more extensive and better organized for these purposes than that of any other country.

The steadiness, regularity, and promptness with which the varied labors incident to a work co-extensive with the United States, and which requires in its details a vigilance reaching through both night and day, have been accomplished, illustrate the advantages gained by placing these duties under military direction. A rigor less than that of military discipline would fail to insure the accuracy and strict obedience to orders which have been necessary.

Under the second section of the act of July 24, 1866, to aid in the construction of telegraph lines, and to secure to the Government the use of the same for postal, military, and other purposes, the Postmaster General has fixed the rates at which telegraphic communications for the Government shall be sent. The plan and method of compensation have

worked well, and are found to be of much economy to the signal service.

The wisdom of Congress in affording facilities for its prosecution is daily exemplified. The labors of this branch of the Department, undertaken with some hesitation as to the result and received at first with doubt in many quarters, have gradually grown into popular favor, and by the really wonderful results accomplished in this new field have commanded the attention and approval of the country. The fact that the reports daily issued find in most cases full confirmation, impresses itself on the minds of the people, and men of all callings, especially those engaged in commerce and agriculture, evince the greatest interest in this important work. Full recognition of its value has been given by the press and by the scientific men of other countries as well as of our own, and the results attained so clearly indicate its importance that I can, without hesitation, rely upon Congress for an appropriation for the prosecution and extension of its duties to the full extent of the estimate submitted.

By law the control of the Military Academy at West Point is devolved upon the Secretary of War. For some years past its immediate management had been intrusted to an officer of the Inspector General's Department, who faithfully discharged his duties. Feeling, however, that, for his better information and that he might more efficiently perform the duties that this responsibility placed upon him, there should be a more direct communication between the Secretary of War and the Academy, the system was changed, and now all reports are made directly to this office.

The present strength of the Corps of Cadets at the Academy is 229. Several instances of improper interference by cadets with their fellows have occurred, but the offenders have been summarily dealt with, and strenuous exertions have been made by the Department to prevent the recurrence of such disorders, and to improve generally the tone of military discipline. Legislation on the subject of the expenses of the Board of Visitors is desirable, as under existing laws for the payment of the board and lodging of the members, doubts arise as to what is properly to be included under the head of board. A per diem allowance would remove this uncertainty, and it is recommended that such an allowance be made in the next appropriation.

By the fire at the cadet barracks last winter, many cadets who were engaged, under the direction of their officers, in extinguishing the flames, suffered the loss of clothing, books, &c., and an appropriation is recommended to compensate them for such losses. The sum necessary for this purpose will not exceed six thousand dollars, and should be confined to compensation for their clothing and books.

The intelligence of the great fire of October in Chicago reached the Department while the flames were in progress, and orders were at once telegraphed to officers in charge of Army depots to forward to that city sup-

plies for the homeless and destitute. The promptness with which the wishes of the Department were carried out, merits high commendation. In a few hours, clothing, blankets, tents, and provisions were on their way to the stricken city, and this immediate action relieved much distress. The records and property in the building occupied for headquarters of the Military Division of the Missouri were totally destroyed, but the greater portion of the most valuable can be duplicated from the War Department. Several companies of troops were ordered to the city by General Sheridan, under whose supervision they assisted in preserving order during the trying days which succeeded the conflagration. The official and personal conduct of General Sheridan, while intrusted, by common consent, with the management of affairs in the city, receives the emphatic approval of this Department.

Similar issues of supplies of various kinds were made to the governor of Wisconsin for the relief of the sufferers in that State, and relief was also afforded to those in Michigan. Without further application, Congress will, without doubt, record its sanction of this action.

A perfect system of financial disbursements is a subject which, from the beginning of the Government, has commanded the attention of all the Departments; and the discovery of the astounding frauds, which have startled the country by their magnitude, has recalled attention anew to the causes which have combined to permit these dishonest actions to go so long undetected. No system of regulations can be devised which will make embezzlement, under all circumstances, impossible. The rogue is always vigilant. Counter-vigilance alone can thwart his schemes. The regulations now governing disbursements appear to be ample for the prevention of fraud. The failure to enforce them makes the path to fraud an easy one. The daring deceptions lately practiced provoke an inquiry as to some mode for the prevention of their recurrence. Relaxed duty, failing vigilance, and excessive confidence suspend all checks on dishonesty, and render regulations a farce. A careful scrutiny, by frequent inspections of the accounts of disbursing officers and of their cash balances, followed up, without loss of time, by a comparison of the result of this searching inspection with the officer's balance at the place of deposit, is clearly the only safe resort. The objection that a sentinel is thereby placed at every disbursing officer's door is not entitled to consideration. Integrity does not object to test. It invites scrutiny. An honest public officer prefers that his discretion should be limited. He accepts responsibility when it comes, but he cheerfully submits to any examination of his public conduct, deeming it no reproach that he is subjected to the operation of an inflexible rule, which the dishonest acts of others have made a necessity. Men of large experience as disbursing officers have told me that they do not remember a single defalcation which might not have been prevented or speedily detected by the exercise of proper vigilance on the part of the

supervising officer. In this he does not transcend his duty. He only performs it.

Why the necessity of furnishing duplicate statements to different Departments if no comparison is made? When the shock of discovery comes, and a great fraud is made manifest, it is clear that there is neglect somewhere. Is it in the regulations and orders and circulars issued for the prevention of these very frauds? Not at all; but in the disregard of supervising officers of their provisions. The vigilance which these circulars prompt, would, if exercised, furnish a different result. Holding these views as to the necessity for frequent inspections, and recognizing their great advantages, I propose, in this Department, to test their efficacy in the most thorough manner. In assigning inspectors to districts, I shall deem it my duty to hold each one of them responsible for every misdemeanor which occurs in connection with the accounts of any disbursing officer in his district, which due diligence on his part would have prevented, so that he will feel that he has a trust with which he dare not trifle. A plan of inspection can, in my judgment, be established, which will be simple and direct, and I shall endeavor to show by its operation that it is eminently practicable. With detection made morally certain, and with punishment sure and speedy, there can be no safety for fraud.

The proclamation of the President of May 3, 1871, calling attention to the act of Congress entitled "An act to enforce the provisions of the fourteenth amendment to the Constitution of the United States, and for other purposes," approved April 20, 1871, necessitated orders for the enforcement of the same by this Department, and consequently it was directed—

That whenever occasion shall arise, the regular forces of the United States stationed in the vicinity of any locality where offenses described by the aforesaid act, approved April 20, 1871, may be committed, shall, in strict accordance with the provisions of said act, be employed by their commanding officers in assisting the authorized civil authorities of the United States in making arrests of persons accused under the said act; in preventing the rescue of persons arrested for such cause; in breaking up and dispersing bands of disguised marauders and of armed organizations against the peace and quiet or the lawful pursuits of the citizens in any State.

It has been absolutely necessary to retain about one-sixth of the Army in those States of the South, east of the Mississippi, which were engaged in the war of the rebellion. Numerous applications for troops to aid in the enforcement of the laws were received from United States marshals, officers of internal revenue, and State officials; urgent appeals for assistance crowded in from private citizens, and it soon became evident that the security of the people demanded the continued presence of the regular forces. It is a painful fact, which merits serious consideration, that in some portions of the South freedom of opinion is not tolerated, if that opinion is expressed in opposition to the doctrines which originated the late rebellion. Indisputable evidence establishes the fact, which is proven, too, by the experience of numerous sufferers, that an

armed rebellion of regular organization and great strength now exists in parts of those States. The frequent reports by Army officers of perfect reliability, made after mature observation and judgment, conclusively show that the ramifications of this organized body are extensive; that its system is arranged with great care and shrewdness; that its persecutions extend in the dark hours of the night, and in cowardly disguise, to persons of every age, sex, and condition who dare to exercise a freedom of conduct, action, or speech which disagrees with the political doctrines of these marauders. This body of conspirators, constituted for the purpose of crushing out many of the inherent liberties of the defenseless people of those States, defies the law and spurns the authority of the Government, and, so long as it exists, so long will it be necessary to aid the civil authorities with the armed force of the nation in putting down this second rebellion and in bringing its leaders to speedy punishment.

The attention of Congress has been repeatedly called to the necessity of appropriations for the speedy erection of a substantial fire-proof building for the War Department, and I cannot close this report without again alluding to the subject. The rented buildings, scattered all over the city, are remote from the main office and ridiculously unsafe. Many tons of records, to which the public business requires daily reference, are stored in these buildings. Besides their historical interest, these papers are of immense value for the protection of the Government against fraud, comprising all the muster-rolls of the regular and volunteer armies, reports of Army officers, hospital records, accounts of public property, and, in fact, the accumulated records of the Department for seventy years, and are scattered here and there in such buildings as can be secured by rent from private parties, and utterly unsuited to the purposes for which they must be used. Every consideration of public interest urges me to press this matter upon the attention of the people's representatives, in the hope that they will act before a conflagration sweeps from the possession of the nation those records whose value cannot be told in figures.

Reflection on the mode of clerical selection and appointments suggests the hope that a system may be devised by the civil service commission which may extend its beneficial effects to the various Departments of the Government. The experience of those who have watched with interest the workings of this Department teaches that time is lost, money wasted, and business demanding attention delayed by the constant changes which occur under present laws and customs. A judicious reform would soon exhibit the great advantage of an improved system.

WM. W. BELKNAP,
Secretary of War.

REPORT
OF
THE SECRETARY OF THE NAVY.

REPORT

OF

THE SECRETARY OF THE NAVY.

NAVY DEPARTMENT,
Washington, November 25, 1871.

SIR: I respectfully submit the following report of the Navy Department and the naval service for the past year:

The Navy of the United States now consists of 179 ships of all classes and in all conditions. These are calculated to carry, when in commission for service, 1,390 guns, exclusive of howitzers and small caronades.

Since the date of the last report, the news of the loss of the *Saginaw*, on the 29th day of October, 1870, at Ocean Island, in the Pacific, was received at the Department, and in May last the tug *Primrose* was sold at the navy-yard in this city.

Of the 179 ships remaining on the Navy list, 29 are sailing-ships, and the remainder side-wheel steamers, or sailing-vessels with auxiliary screws; 53 of them, armed with 601 guns, are in service, attached to the various fleets and stations as regular cruisers, dispatch-boats, hospital, store, receiving, and practice ships; these, with the tugs and small vessels in use at the various navy-yards and stations, make the force in commission for all the purposes of naval service.

Of the remainder, 6 are nearly ready for sea, and will join the various squadrons as soon as their crews can be enlisted and organized; 52 are monitors, only one of which is now in commission, the balance being laid up at the various stations, but principally at League Island, where, in the fresh water of the Delaware, their iron bottoms deteriorate with far less rapidity than in the salt water of the other stations; 17 are under repair at the various yards; 13 are on the stocks, never having been completed and launched; and the balance of those whose names are on the list are laid up in ordinary.

Of these last a very large proportion, including, as a general proposition, almost all those built of unseasoned white oak, are unfit for use, and cannot be repaired with advantage.

Built with great rapidity, of the only material available during the pressing emergencies of the war, and many of them designed for special purposes, the necessity of which has passed away, the cost of repairing them would be entirely out of proportion to the results to be obtained,

either of service or endurance. Their usefulness has passed or is passing away. They make a part of the necessary expenditure of the great war, and the nation must accept the loss, and from its abundant resources must supply the deficiency which is thus occasioned. Unless something is done in this direction, our cruising navy, now by no means powerful, indeed scarcely respectable for a nation of our rank and responsibilities, will soon almost wholly pass out of existence as an arm of our national power.

It is certainly true, as suggested in your last annual report, that, situated as our country is, "the Navy is our only means of direct protection to our citizens abroad, or for the enforcement of any foreign policy;" and while we may have some reason to hope that in our own generation we may see the beginning of an end of warlike strife among the more enlightened and free of civilized nations, yet we cannot expect that the world will be wholly civilized in our day, or that freedom will come to it without contention. Barbarism will still respect nothing but power, and barbaric civilization repels alike interference, association, and instruction. Even in civilized communities, ambitious, selfish, and turbulent passions still sway the actions of men, and arbitrary power will not yet resign, without a struggle, its hold on the organizations of civilized society.

Not only on the shores and among the islands of our continent, but in every seaport of civilized Europe, in Asia, from the shores of the Bosphorus to the head of navigation on unnamed rivers on the confines of the Chinese Empire, in Japan, in the islands and semi-continents of the East, and among the groups of the Pacific and the Southern Oceans, our citizens claim and need our protection. In every quarter of the known world they are found occupying every field which enterprise dares to invade or energy avails to conquer; and everywhere, outside of our own limits, wherever they enter, they carry with them affirmative, and sometimes aggressive, ideas of freedom and progress, antagonistic alike to the traditions, customs, and habits of the people, and the ideas and practices of the local governments.

• Such is the result of our progressive civilization upon the enterprising and affirmative spirit of our people. Its effect is apparent in every land that they penetrate; and we cannot afford, either as a Government or as a people, to neglect wholly our responsibilities as a representative nation, nor our national obligations to our citizens who, wherever they are, claim the countenance of our Government and the protection of its flag.

I feel it my duty again to press these considerations, so often presented already, in the hope that in their own time the representatives of the people will give their attention to the situation, and take efficient measures, at least, to check the decline of our naval power.

The limits and duties assigned to the various cruising stations have not been changed since my last report, and the naval force given to each has not been materially changed. The vessels actually in commission

on some of the stations are less in number than formerly; but this decrease is rather apparent than real, for in almost all there has been an actual increase of the active force. This has been done by putting out of commission the unwieldy iron-clads, which could only lie inactive in harbor or were towed slowly and at great expense from port to port, and substituting for them, as far as the Department has been able, small and active cruisers, by which means we are enabled to occupy continually a larger extent of cruising ground and visit more frequently the ports assigned to each station, and generally to render more effective service in every department of public affairs where the presence and aid of the Navy is necessary, without greater expense of men and money.

The force on the North Atlantic station is still under command of Rear-Admiral S. P. Lee, who held that position at the making of the last report. The force on this station consists of the *Severn*, the *Swatara*, the *Nantasket*, the *Nipsic*, the *Kansas*, the *Pawnee*, the *Terror*, with the *Worcester* and *Canandaigua* just fitted for the station, and the *Shawmut* now on duty there, but ultimately destined for the South Atlantic—in all 10 ships, mounting 70 guns, all active cruisers, except the *Terror*, which is an iron-clad of the Monitor class.

The South Atlantic station remains, as at the date of the last report, under command of Rear-Admiral Lanman, with a fleet consisting of the *Lancaster*, (flag-ship,) the *Ticonderoga*, and the *Wasp*, with the *Wyoming* already fitted for the station—4 ships, mounting 40 guns, besides the *Shawmut*, detained for the present on duty on the North Atlantic station.

The fleet on the Pacific station, still commanded by Rear-Admiral John A. Winslow, consists of the *California*, the *Pensacola*, the *Narragansett*, the *Saranac*, the *Mohican*, the *Resaca*, the *Ossipee*, the *Onward*, and the *St. Mary's*—in all 9 ships, mounting 99 guns, and divided into two squadrons, viz: the North Pacific and the South Pacific, commanded respectively by Commodore Roger N. Stembel and Commodore David McDougal.

The European station is now commanded by Rear-Admiral Charles S. Boggs, who relieved Rear-Admiral Glisson on the 28th day of January last. The ships belonging to this fleet are the *Brooklyn*, the *Plymouth*, the *Guerriere*, the *Wachusett*, the *Shenandoah*, the *Juniata*, and the *Wabash*, with the *Congress* about to sail—in all 8 ships, with 139 guns.

On the Asiatic station, of which Rear-Admiral John Rodgers is still the commandant, we have the *Colorado*, the *Benicia*, the *Alaska*, the *Ashuelot*, the *Monocacy*, the *Idaho*, and the *Palos*, with the *Saco*, now on her way through the Suez Canal, and the *Iroquois*, under orders to join the squadron—in all 9 ships, mounting 97 guns.

Of these ships on the various stations forty have been more or less refitted and repaired at home or abroad since my last report, and four others, all of the smaller class, now at the various navy-yards, will be ready for sea in periods varying from twenty to sixty days.

During the year the Navy has also supplied 16 officers and 220 men for duty in the Coast Survey service; has completed the survey of the Darien and Tehuantepec routes, has made extensive surveys and soundings for telegraph cables, and, under the direction of Congress, fitted out and dispatched three store-ships loaded with provisions, by the charitable people of our country, for the sufferers from the European war, and has, under like direction and under your order, sent out a vessel, completely fitted, equipped, and supplied, to explore the Arctic Ocean "toward the North Pole."

All these are appropriate and valuable duties for the Navy in time of peace, and are proper expenditures of its material and force; and while they add to the information of the world, and contribute to civilization and advancement, they afford to the officers and men employed a proper and practical school of service and instruction.

MIDWAY ISLANDS.

In my last annual report it was stated that the work of deepening the harbor of Midway Islands, prosecuted under the authority of an act of Congress approved March 1, 1869, would of necessity cease in October, 1870, on account of the exhaustion of the fund appropriated for the purpose. Accordingly work on the cut was discontinued on the 21st of the month named, and the working party embarked on the *Saginaw* October 28, for San Francisco. The reports of Commodore Sicard, detailing the progress of the work, will be found in the Appendix. This officer estimates that to complete the canal to a width of 175 feet will require about forty-six months' work, at a cost of \$187,000, without counting the cost of removing the débris or "small stuff." Such would, he thinks, cost as much more.

WRECK OF THE *SAGINAW*.

Leaving Midway Island on the 28th of October, Commander Sicard, of the *Saginaw*, determined to run to Ocean Island, a small island lying about one hundred miles to the westward of Midway, to rescue any sailors who might have been wrecked there, and who, being out of the ordinary track of vessels in that part of the Pacific, would have little chance of relief from any other source. This expedition, though in the direct line of his duty as the commander of a naval vessel, was fraught with the usual perils of navigation in unknown and dangerous waters; and about 3 o'clock on the morning of the 29th of October the *Saginaw*, running slowly in the darkness, was wrecked on a reef outlying the island for which she was bound. With great exertion and the exercise of much energy and skill, all on board, including the officers and men of the ship, and the working party from Midway Island, were safely landed, with a small allowance of provisions and materials rescued from the wreck. Cast upon the shores of an uninhabited island,

with scanty means of subsistence, out of the line of travel, and more than one thousand miles from the nearest port of refuge or relief, then it was that the commanding officer of the *Saginaw* illustrated the benefits of the comprehensive education and strict training which he had received at the hands of the Government, and exhibited the high personal qualities which characterize him as an officer. Ably seconded by his subordinate officers of every grade, Commander Sicard took, immediately, every possible means for the health, safety, and final relief of those who were committed to his command. Whatever could be saved from the wreck was at once secured; measures were immediately taken to keep up the health, spirits, and discipline of the men; fresh water was distilled by means of an old boiler; and everything was organized so that there was no waste of either provisions, material, or labor.

The boat fittest for the service was promptly repaired, provisioned, and equipped, as far as might be, for the perilous voyage, and, manned by one officer and four men, all of whom volunteered for the service, was dispatched to Honolulu, the nearest port from which relief could be expected. After her departure work was vigorously pushed on the island; and when finally rescued, the shipwrecked mariners, with well-directed labor, had almost completed, from the material of their old ship, a new schooner, perfectly seaworthy, and sufficient, under favorable circumstances, to carry the whole shipwrecked party to a port of safety. I have thus collated some of the facts of this case to illustrate my high opinion of the energy and ability displayed by Commander Sicard and his comrades on this occasion, and to show how well such conduct repays the favor of the Government.

The little party who volunteered for the voyage in a small boat to Honolulu, to bring relief to their comrades, more than fifteen hundred miles across a winter ocean, consisted of Lieutenant John G. Talbot, executive officer of the *Saginaw*; William Halford, coxswain; Peter Francis, quartermaster, and John Andrews and James Muir, seamen. They left Ocean Island on the 18th of November, and after a voyage of thirty-one days, during which they encountered terrible difficulties and danger, and endured much privation and suffering, they arrived, on the 19th of December, off the Island of Kanai, one of the Hawaiian group. They had previously lost their oars in a storm, and in attempting to land the boat was upset, and Lieutenant Talbot and three of the men, already exhausted by privation and suffering, were drowned in the surf. William Halford alone survived, and reached the shore in safety with the dispatches from Commander Sicard. Mr. Pierce, our minister to the Sandwich Islands, at once chartered a vessel, which, with a Hawaiian steamer proffered by the government, sailed the same day, and relieved the shipwrecked crew of the *Saginaw*. The thanks of the Department are due to Mr. Pierce and to the Hawaiian government for their energy and kindness.

The death of Lieutenant Talbot closed a career of unusual promise, and in it the Navy lost a brilliant and beloved member. A skillful sailor, an accomplished officer, and a Christian gentleman, his self sacrifice has arrested the attention of his comrades, and will remain an example to the service, which in life his virtues adorned, and whose highest qualities were illustrated in the crowning heroism of his death. His comrades of humbler rank will not be forgotten. With him they faced the dangers of the lonely ocean, and offered their lives, with his, to save their shipwrecked messmates; and no one can estimate how much of danger and suffering, perhaps of death, was saved through the courage and endurance of the sole survivor of that gallant boat's crew.

TEHUANTEPEC CANAL.

The Department is in receipt of the report and accompanying maps of the Tehuantepec surveying expedition, under the command of Captain R. W. Shufeldt, United States Navy.

This expedition was authorized by act of Congress, and an appropriation made therefor. A small corps of naval officers was detailed for the work, and the steamer *Mayflower* placed at the disposal of Captain Shufeldt. The *Kansas* was ordered to accompany the expedition for the purpose of surveying the river Coatzacoalcos and its bar. The *Cyane* was ordered to assist the expedition in the survey of the harbors and lagoons on the Pacific coast. It was known that surveys had before been made for a railroad, and the feasibility of supplying the summit-level with water reported by Señor Moro, in 1848, and the main object of the present expedition was to determine, ultimately, the question whether a sufficient supply of water for a ship-canal across the isthmus could be obtained. For this purpose a careful and thorough examination was made of the country adjacent to the lowest passes, under the immediate supervision of Civil Engineer E. A. Fuertes. Señor Moro's proposition was first examined into and found to be impracticable. The attention of the party was next turned to the Rio Corte, or Upper Coatzacoalcos, as the only solution of the question of water supply, and it was found practicable, by means of a feeder, to supply upward of 2,000 cubic feet of water per second. For the technical part of the engineering question, Captain Shufeldt refers to the report of the chief engineer of the expedition. This is accompanied by twenty maps and profiles, with many calculations to prove that a ship-canal across the Isthmus of Tehuantepec is not only practicable, but that the obstacles in the way of the canal-route are of the most ordinary nature.

The party was joined, on the 10th of January, by three Mexican commissioners, who worked in perfect accord with our own force.

The season of the year prevented the running of a line to the Atlantic; yet, from the thorough surveys previously made for railway purposes, and the general information gathered on the frequent journeys of the party, it is assumed that the canal can start at the head-waters of ship

navigation of the river Coatzacoalcos and run thence along its right bank and the valley of a tributary to the dividing ridge at Tarifa, descending through the Tarifa Pass, across the plains, to its Pacific terminus. The total length of such a canal will be 172 miles, including river navigation. It will require locks to overcome a height of 732 feet. The Coatzacoalcos River, forming the harbor at the Atlantic side, is well sheltered, and will require dredging at only a few points. The Salina Cruz Harbor, on the Pacific, is exposed to the south winds, and a breakwater is proposed, to convert this roadstead into a safe harbor. No estimates have been made as to the cost of the work, since a minute survey of the whole region would have required larger means and more time than were at the disposal of the officer in charge.

Full and interesting accounts of the geology, natural history, and productions of the country accompany the report.

DARIEN CANAL.



The survey of the Isthmus of Darien, under Commander T. O. Selfridge, which had been interrupted by the advent of the rainy season last year, has been successfully conducted in spite of the great obstacles met in making way through a dense and almost impenetrable wilderness.

The Guard and Nipsic were detailed for this service upon the Atlantic coast, and the Resaca upon the Pacific. Commander Selfridge sailed from New York in December last. His attention for the past year has been directed mainly to that portion of the isthmus bordering upon the valley of the Atrato, known properly as the Tuyra and Napipi routes.

The route of the Tuyra and Atrato Rivers had been reported upon most favorably by former explorers, and hopes were entertained that these reports might prove true. Five months were spent in the examination of this route, a line of levels 120 miles long was run from ocean to ocean, and though the divide in one portion was found to be not over 400 feet in height, the very broken nature of the country which was developed seems to render this portion of the isthmus impracticable for this enterprise.

The survey of the Napipi route has been productive of far more favorable results, and has illustrated the possibility of a ship-canal between the two oceans.

The line adopted by Commander Selfridge commences at the mouth of the Atrato, in the Gulf of Darien, ascends that river for 150 miles to the mouth of the Napipi, and thence across, in the valley of the latter, to the Pacific Ocean, at Cupica Bay. The Atrato is navigable the whole of this distance for ships of the largest size, having a width of 1,500 feet and a depth nowhere less than 30 feet. The actual length of the necessary canal is $31\frac{2}{3}$ miles, the distance from the Atrato River to Cupica Bay, of which 23 miles is a flat plain, with a rise of 90 feet, and no difficulties of construction. The remaining 8 miles present the only

engineering obstacles; here the hills rise to a height of 600 feet and descend almost precipitously to the Pacific.

Commander Selfridge's report will be found in the appendix. His estimates of cost are based upon a canal 120 feet wide and 26 feet deep. It is proposed to lock up to a summit level of 90 feet, at which point the canal is fed by the Napipi River with a volume, at its lowest stage, of over 500,000 cubic feet per hour—a quantity which can be doubled by a feeder 3 miles long. The 8 miles beyond the summit level include a cut averaging 125 feet deep and a tunnel 5 miles long. The successful operations at the Mt. Cenis and Hoosac tunnels, with the modern improvements in drilling machines and explosives, seem to solve successfully the problem of great tunnels, which now cost but little more than open cuts. The total cost of such a work in this country is liberally estimated at \$95,000,000, which, adding twenty-five per cent. for contingencies, makes a total of \$125,000,000. This route presents not only the great advantage of most excellent harbors at each terminus, but its low cost, compared with other lines, its construction in rock, requiring but a small outlay for annual repairs, the proximity of the heaviest portion of the work to the Pacific Ocean, the absence of swamps, and the comparative healthiness of the position, give it a prominence which repays the cost and labor of the expedition.

These surveys, in addition to developing this excellent route, have, in clearing away the doubts and ignorance hanging over the Isthmus of Darien, in the fixing of its geographical positions, and in giving positive knowledge of the interior, its inhabitants, products, rivers, and mountains, added much to the general information of the scientific world.

The whole of the Isthmus of Darien, as embraced in the instructions of the Department, dated January 16, 1870, having been surveyed, Commander Selfridge returned with the expedition to the United States in July last.

It is gratifying to know that, notwithstanding the privations and hardships incident to this service, and the prevailing idea of the unhealthfulness of the climate, no lives have been lost in the prosecution of these surveys. Most of the work has been done by graduates of the Naval Academy, who, readily adapting themselves to the various duties required of them, have given an additional proof of the usefulness of that institution.

SUPPLIES FOR FRANCE AND GERMANY.

In pursuance of a resolution of Congress approved February 10, 1871, three naval vessels, the Worcester, the Supply, and the Relief, were detailed for the transportation of supplies furnished by our people for the sufferers of the European war which was then raging. The vessels soon had full cargoes, shipped respectively at Boston, New York, and Philadelphia, and started on their noble mission; each under instruc-

tions to deliver their cargoes at the points designated by the agents of the relief associations of the respective cities. Having successfully fulfilled their instructions, they returned safely to the United States to the ports from which they started.

EXPEDITION TOWARD THE NORTH POLE.

By the ninth section of an act approved July 12, 1870, "the President of the United States was authorized to organize and send out one or more expeditions toward the North Pole, and to appoint such person or persons as he may deem most fitted to the command thereof; to detail any officer of the public service to take part in the same, and to use any public vessel that may be suitable for the purpose; the scientific operations of the expedition to be prescribed in accordance with the advice of the National Academy of Sciences."

Mr. Charles F. Hall, a traveler of great experience in that locality, was appointed by your order to command the expedition fitted out under this authority.

The *Perriwinkle*, now called the *Polaris*, a small steamer of 387 tons, was selected for the service, and thoroughly prepared and strengthened at the Washington navy-yard to encounter the perils of polar navigation. Mr. Hall himself was permitted to suggest and supervise the preparation of the vessel, and to recommend the persons selected to accompany him.

The general instructions given to Mr. Hall by this Department, those for the scientific operations of the expedition, prescribed by the National Academy of Sciences, and the main correspondence and reports connected with the expedition, from its organization to its arrival at Upernavik, are embraced in the Appendix to this report.

The *Polaris* left Washington June 10, arrived at New York the 14th, completed there her crew and outfit, and sailed the 29th. Touching at New London, St. John's, and Holsteinberg, in Greenland, she reached Godhaven on the 4th of August. The United States steamer Congress, detailed to convey to Greenland such stores of the expedition as the *Polaris* could not carry, sailed from New York on the 25th of July, and came up with the *Polaris* at Godhaven on the 10th of August.

The Danish authorities at Godhaven extended every facility to the officers of our ships, and contributed by every means in their power to the success of the expedition.

The *Polaris* took her departure from Godhaven August 17, and reached Upernavik the next day, whence her adventurous crew has sailed into the unknown Northern Ocean, full of hope and vigor, and bearing with them the good wishes of the world.

The Congress, having accomplished successfully the duty assigned to her, left Godhaven August 19, and arrived at New York on the 21st of September.

COREAN EXPEDITION.

Our minister to China having been instructed to arrange and conclude, if possible, a convention with the people who occupy the peninsula of Corea between the Yellow Sea and the Sea of Japan, for the protection of sailors and other strangers shipwrecked on their coast, it became necessary to that end that he should visit the capital of the country, or at least put himself in direct communication with the authorities. With this view, and with the assent of the authorities of China, to which country the government of Corea is tributary, our minister sailed, in May last, from Nagasaki to Boisé anchorage, on the Sale River in Corea, in the Colorado, the flag-ship of Rear Admiral Rodgers, commanding our Asiatic fleet. The admiral was accompanied by the Alaska, the Benicia, the Monocacy, and the Palos. He was ordered thus to transport and convoy the diplomatic representative of our Government, to exhibit, in his behalf, such force as was proper to illustrate his dignity in the eyes of the people, who respect only the exhibition of power, or as might be necessary to insure the safety of the expedition and vindicate, if need be, the honor of the flag. The wisdom and necessity of this policy was shown in the events which followed.

After the arrival of the fleet at the anchorage, and after communication with and visits from the local authorities, and the assurance on our part, and understanding on theirs, that the expedition was not only peaceful but friendly in its objects, a surveying party, engaged in the peaceful occupation of making surveys and soundings, in the interest of science and for the safety of commerce, after having been allowed, with the understood consent of the authorities, and without protest or challenge by any one, to pass up the channel to a point past the Corean forts, far separated from and beyond the reach of assistance from the main body of the fleet, was suddenly and treacherously attacked while in the difficult navigation of an unknown passage swept by strong tides and filled with hidden rocks. The surveying boats were obliged to re-pass the forts, under a fierce fire of cannon suddenly opened upon them, and maintained with vindictive spirit and energy. The small vessels which had accompanied the party hurrying into action answered the fire of the forts, and, driving the Coreans from their works, rescued the surveying boats from danger, with only two of our men wounded.

It was determined, by the concurrent judgment of our minister and Admiral Rodgers, that an explanation should be at once demanded, and that ample time should be given the Coreans to understand the situation and make proper reparation.

This was done, and ten days were allowed to pass, during which no movement was made by Admiral Rodgers, nor was any explanation offered by the Coreans. An attack was then planned and carried out upon the forts and citadel from which the outrage had been committed.

A party of sailors and marines were landed, and, after a difficult march over an almost impassable country, the forts were assaulted and captured June 9th and 10th. The officers and men engaged in this attack displayed perseverance, steadiness, and courage highly creditable to the country and the service.

Five forts were captured and destroyed, fifty battle-flags taken, and 481 pieces of artillery fell into our hands. Upward of two hundred and forty Coreans were killed and a few captured.

Our own losses were three killed and ten wounded; among the former was Lieutenant Hugh W. McKee, a gallant and promising young officer, who fell at the head of his men, himself first inside the enemy's citadel.

Finding it impossible to conclude the peaceful treaty, and not authorized to continue hostilities, except to repel and punish attack, the fleet left the anchorage of Boisé on the 3d of July, and arrived at Chefoo on the 5th of the same month. The latest dispatches indicate that though the direct object of the expedition has failed, yet the punishment which was inflicted upon our treacherous assailants, and the gallant conduct of our forces, has not failed to make an impression upon the people of the Chinese coast, and to contribute materially in its effects to the consideration and comfort and perhaps to the safety of our citizens located there.

REPORTS OF BUREAUS.

The reports of the several bureaus of the department will be found in the appendix, together with the report of the admiral, presenting in detail many subjects to which I am unable to allude in this report; I commend them to the careful perusal of all interested in the service.

The Naval Observatory has well earned its reputation as an admirable institution, and the works of its officers in late years have placed it in the foremost rank at home and abroad. It is ably and economically administered, and I commend it to the favorable consideration of Congress.

The Hydrographic Office has, during the past year, made marked progress, and its publications, both in books relating to navigation and charts, reflect great credit on the officer in charge and on those attached to the office. The report of the hydrographer, Captain R. H. Wyman, is embraced in the report of the chief of the Bureau of Navigation. I particularly recommend that some additional appropriation be made for the advancement of this work, so necessary to our naval and commercial marine. While every great maritime nation is yearly prosecuting the survey of unexplored or insufficiently determined avenues to commerce, the United States has remained idle, and, taking advantage of the work of other nations, has by no means returned to them an equivalent. The means should at least be furnished for the prosecution of more gen-

eral surveys, particularly in the Pacific Ocean and the waters most traversed by our commercial marine.

The Marine Corps, besides discharging well all their ordinary duties on land and at sea, have also been employed during the past year to accompany the various surveying parties on the isthmuses, and have been called upon several times for the protection of the civil officers engaged in the execution of the revenue laws. For their efficiency and services in this behalf they have received the thanks of the Treasury Department.

NAVY-YARDS.

I again call attention to the necessity of developing our most important navy-yards.

The commercial nations of Europe, from their enormous arsenals, are able to strike our shores sharply and suddenly.

Our own yards are generally small in area and very deficient in water front; developed on no well-considered plan, they are imperfectly adapted to the changed condition of construction and equipment.

At *Mare Island*, in California, we have ample space, abundant water front, and, happily, all the requirements of a great naval arsenal.

It is unnecessary to dwell upon our great naval interests in the Pacific, or upon the immense importance of improving the invaluable naval site, in the immediate vicinity of our great Pacific City.

At *League Island* we have had the same ample area and water front, and the means of easily converting its back-channel into an admirable wet-basin, like those in Europe, while the excavation thus made will raise the island to a requisite height.

The Department has been able, on the appropriation made last year for this purpose, to contract with responsible parties for the building of a commodious wharf, and for the dredging of a considerable basin in the back-channel, and the filling in to a proper level of about ten acres of the island, or nearly half the area of the present working yard at Philadelphia.

A navy-yard so ample in its proportions, in the midst of our great coal and iron region, easy of access to our own ships, but readily made inaccessible to a hostile fleet; with fresh water for the preservation of the iron vessels so rapidly growing into favor, surrounded by the skilled labor of one of our chief manufacturing centers, will be invaluable to our country. With the resources of Mare Island on the Pacific and League Island on the Atlantic shore, fully developed on a well-considered plan, the country would receive a great accession of strength, and find new bulwarks against foreign aggression,

At *New London*, also, the appropriation of \$10,000, made by Congress, has been found sufficient for the building of a small but convenient dock, and that station is now in use for laying up ships in ordinary, as a point convenient to our repairing-yards at New York and Boston.

IRON-SHIP BUILDING-YARDS.

In March last, I had the honor to make a report to the Senate, in obedience to a resolution of that body, upon the subject of the proposals made to the Department "for establishing iron-ship building-yards and docks to economize expenditure in the Navy, and to aid in restoring commerce."

This subject is much too comprehensive for cursory discussion in this report, but I have already, in my first annual report, spoken of its great importance to every interest of the country, and I hope to be able hereafter to present some system to be matured under the deliberations of Congress.

NAVAL PENSION FUND.

The pension-roll on the 1st of November, 1871, was as follows :

1,130 invalids, annually receiving	\$130, 654 25
1,703 widows and children, annually receiving	260, 644 00
<hr/>	
3,133 persons, receiving a total of	391, 298 25
<hr/>	

EXPENSES AND ESTIMATES.

The whole expenditure of the Department and the service since the date of the last report is \$19,265,240 52, including the payment of invalid pensions and adjudicated prize-money, and the appropriations of Congress for the payment of bounties and claims of various kinds to the first of the present month.

The appropriations for the current fiscal year amount in the whole to \$20,964,717 25, and the expenditures from these appropriations are considerably within the proportion applicable to the period which has elapsed since its commencement.

The estimates for the general expenses of the service for the fiscal year ending June 30, 1873, amount to \$19,925,507 02, and are as follows:

Pay of officers and seamen of the Navy.....	\$6,500,000 00
Current repairs of buildings, docks, and incidental expenses in navy-yards, &c.....	1,046,000 00
Pay of civil establishment in navy-yards, hospitals, &c.....	338,786 00
Ordnance and Torpedo Corps.....	1,142,942 00
Coal, hemp, and equipments.....	1,500,000 00
Navigation, navigation supplies, &c.....	137,000 00
Hydrographic work.....	28,500 00
Naval Observatory, Nautical Almanac, &c.....	65,900 00
Repairs and preservation of vessels.....	3,300,000 00
Steam machinery, tools, &c.....	1,650,000 00
Provisions.....	1,587,600 00
Repairs of hospitals and laboratories.....	25,000 00
Surgeons' necessaries.....	50,000 00
Contingent expenses of various departments and Bureaus.....	1,307,000 00

Naval Academy.....	\$193,403 25
Support of Marine Corps	1,049,652 70
Deficiencies of Marine Corps.....	3,718 07
	<hr/> 19,925,507 02

and to these is added the sum of \$507,200 for permanent improvements at the several navy-yards and stations.

These estimates, it will be perceived, are in the aggregate more than \$1,200,000 less than the estimates made for the current year, and more than half a million less than the appropriations made by Congress for that period. It must not be forgotten, however, that they are made closely for the mere maintenance of the naval establishment as it is, and that needed improvement demands increase of appropriations.

REDUCTION OF THE NAVY.

The subject of the reduction of the personnel of the Navy has been much discussed, and it becomes not only those who are charged with the responsibility of the question, but also all who are interested in its solution, to meet and consider it deliberately and fairly, keeping in view at once the history of the country and of the service, and looking to the honor and welfare of both.

Though it is sometimes alleged, as a matter of complaint, that there are more officers of the Navy, especially of the higher grades, than are required for the service, yet it is a fact that, notwithstanding the promotions so hardly earned by many gallant officers during the late war, notwithstanding the admiration which they conquered and the high consideration which they deserve at the hands of a Government, which owes its preservation as much to them as to any other class of its servants or people, still the whole number of active officers in the higher ranks of the Navy is considerably less now than it was before the war.

As a matter of fact, the whole number of officers of the three highest grades of the Navy, (including lieutenants and those above them,) on the active list in 1859, was 535, while on the 1st of July, 1871, the number of officers on the active list in the eight highest grades (including lieutenants and those above them) was 488, or 47 less than before the war. Notwithstanding this condition, I recognize the desirability of reducing the military establishments of the country, of every kind, to the lowest point consistent with the dignity and safety of the country and its important interests, and with that attitude of good faith and generosity which becomes a great government and a prosperous people toward its faithful and devoted servants. With all these considerations in view, I am of the opinion that there are some grades in our Navy now established by law which may be safely and properly reduced or dispensed with in time of peace.

The grades of Admiral and Vice-Admiral, assimilating to those of General and Lieutenant General in the Army, were properly established as the recognition and reward of brilliant service in the late war.

These conditions have been fully met by the character and services of the very distinguished officers who have filled, and now fill, these grades. But the grades themselves are not required for the ordinary service of our Navy in time of peace, and they would lose their peculiar significance of honor, if continued after the termination of the war, beyond the lives of its most conspicuous actors. I therefore suggest that these two grades be allowed to lapse with the lives of those who now hold them.

The grade of commodore, after the lapse of the grades of Admiral and Vice-Admiral, the grade next to the highest of the service, can also, I think, be dispensed with at this time. The number of officers of this grade is fixed by law at 25. As our Navy is now organized, these officers are not absolutely required for any special duty. It is necessary for the efficiency of the service, and for the dignity, influence, and success of our naval representation abroad, that our fleets on foreign stations should be commanded by officers of the rank of rear-admiral at least. This is the lowest grade of officers to whom the fleets of any naval power are committed, and it is with this grade, or with those of higher rank, that our commandants abroad are to come in constant contact, in every country, and before every people of the world, in the discharge of every duty which may devolve on them, relating either to the policy, interest, influence, or honor of our country. Under these circumstances, to commit the command of our fleets to officers of less rank would not only strike at the efficiency and dignity of the service, and often place it and the power it represents, in official consideration abroad, below that of every petty power, from Portugal to Hayti; but would in many parts of the world always postpone and often endanger the interests of our Government and citizens, to a degree out of all proportion to the small additional expense incurred for officers of the grade referred to.

The number of rear-admirals is limited by the general provisions of the law to ten. These are now temporarily increased by two, who are retained on the active list because they have received the express thanks of Congress for distinguished services; with five cruising stations, and a pressing necessity for a sixth, by a division of the Pacific station, this number of rear-admirals is only sufficient to afford commandants, and relief for our fleets abroad, and that without taking into consideration any diminution in the number available, by reason of accident or sickness; to reduce this number would be neither statesmanship nor economy.

Our fleets abroad are, however, generally too small in time of peace to be advantageously divided into squadrons. This leaves the grade of commodore, in such times, without appropriate command at sea, and without duties on shore which may not be discharged by officers of other grades. I therefore suggest that no more promotions be made to this grade after a date to be fixed by law, and that, after this grade shall have lapsed by the death, retirement, or promotion of the present

incumbents, promotions be made to the grade of rear-admiral, by selection as vacancies occur, from the list of captains. This plan will in a short time work the abolition of the whole grade of commodores, twenty-five in number, without real injury to the service or to any one connected with it. The grade of commodore will pass away, and though the captains on the active list will not reach and enjoy its honors, those of them who are deserving will reach the grade of rear-admiral at an earlier and more active age, while only those who are not deserving will miss promotion.

I would further suggest, in accordance with the spirit of the recommendation made this year by the Vice-Admiral, as a member of the Board of Visitors to the Naval Academy, that the term of cadetship for midshipmen be increased by law from four years to six, two of which, at least, shall be spent at sea. The reasons for this change I will take occasion to present more at large hereafter. By this means, the number of officers annually entering the naval service will be reduced by one-third. We may add to these reductions by dropping the mates now employed on temporary duty, except those who have peculiar claims by reason of war service or special fitness. When these reductions are consummated, we will, besides reducing by one-third the number of officers annually entering the service, have accomplished, since the 15th of July, 1870, (including the reductions made by the act of that date,) a reduction of near three hundred in the number of line officers now authorized by law, with an annual saving to the public Treasury of near a half million of dollars.

This is, I think, as far as reductions can be carried at this time without injury or danger. In making these suggestions of reduction, I am conscious that I shall not meet the views of those whose interests are directly affected, and possibly I shall not entirely satisfy those who, on imperfect information or immature reflection, may think further reduction proper. To the first of these classes, I would say that I have made the suggestions after much consideration, and in clear view of the interests of the service, as well as of the country. For the information of the latter class, I beg to present again the following explanations, which I have heretofore made in a less formal manner, showing the many important and complicated duties and requirements of the service:

Our naval organizations are small, and in service are largely separated from and independent of each other. Each organization, however small, must be complete in itself for every purpose of service, with its complement of officers, sufficient in number and experience for every kind of duty and responsibility.

More than one-half of the officers on the active list are now actually at sea. But they cannot, no officer can or should, remain always at sea. The efficiency of the service and common humanity alike require that they should have regular relief from their distant and dangerous duties. But if this were otherwise, still they must come home in the

ships which carried them out, because the seamen are enlisted for only three years, and must be returned to the United States for discharge, and their officers must come with them.

There are, however, other reasons why all the officers cannot be kept always at sea.

They are needed for shore duty ; duty required by law, duty as essential to the efficiency, good order, and safety of the Navy, as is sea service itself.

Ships are neither built, nor manned, nor armed, nor equipped, nor largely repaired at sea. All the business connected with the building, preserving, and repairing of war vessels, with recruiting and enlisting men, with providing ordnance, means for navigation, equipment, provisions, clothing, medicine, hospitals, &c., &c., must be attended to on land. Hence the necessity of navy-yards, and naval stations, and an adequate number of officers and men to manage, conduct, and protect them.

The education of cadet midshipmen requires its quota of both officers and vessels.

Courts-martial and courts of inquiry, composed of commissioned officers, as required by law, are as indispensable in administering naval law and justice as are civil courts in civil affairs.

Boards of examination and retiring boards are required by law, and boards of survey and inspection are a constant convenience and necessity.

Officers are also constantly required and employed on other important duty not connected with the several squadrons: some in acquiring a knowledge of the signal code ; some, under requirement of law, on the Light-House Board, with the Coast Survey, the Observatory, and Hydrographic Office; some, in obedience to resolutions of Congress, in making soundings for telegraphic cables; and some in exploring the routes of the great interoceanic canals.

Officers of competent rank, knowledge, and experience are required for all these duties, alike by the necessities of the service and the provisions of existing laws.

Whether they are engaged in active duty or waiting orders, justice and sound policy concur in requiring, what existing laws also require, that the pay of naval officers shall, to some extent, continue. If this were not common justice, it would be at least common prudence. No maritime and naval power has ever been or ever will be guilty of the folly of turning its naval officers adrift the moment their cruise is ended.

Navy officers fit for important commands require the training and experience of years, and cannot be obtained at a moment's notice, nor be called into existence by proclamation or legislation, even upon the spur of rebellion or invasion. They are only produced by long-continued processes of instruction and development.

False economy may seek to scatter our officers and cripple our service,

leaving our interests unprotected on every sea, but wise and liberal statesmanship will alone avail to protect our commerce, secure our foreign interests, and maintain our national honor.

In conclusion, I must again express my renewed obligations to the chiefs and officers of the several Bureaus, and to the accomplished Chief Clerk of the Department, and his associates, for the constant and effective energy and skill with which I have been assisted in every branch of departmental duty.

GEO. M. ROBESON,
Secretary of the Navy.

The PRESIDENT.

REPORT
OF
THE POSTMASTER GENERAL.

REPORT OF THE POSTMASTER GENERAL.

POST-OFFICE DEPARTMENT,
Washington, D. C., November 18, 1871.

SIR: The ordinary revenues of this Department for the fiscal year ended June 30, 1871, were \$20,037,045 42, and the expenditures of all kinds \$24,390,104 08. For the year ended June 30, 1870, the ordinary revenues (not including the amount of money-order funds deposited as postal receipts for convenience of transfer) were \$18,879,377 65; and the expenditures (not including the amount of money-order funds re-transferred) were \$23,348,837 63. The increase of revenue for the year 1871 over the year 1870 was \$1,157,667 77, or 6.13 per cent., and the increase of expenditures \$1,041,266 45, or 4.45 per cent., showing a net increase in revenue of \$116,401 32. The increase in revenue for the year 1871 over the year 1869 was \$2,722,869 70, or 15.72 per cent., and the increase of expenditures for 1871 over 1869 was \$1,251,972 58, or 5.41 per cent. The increase in revenue for 1871, compared with 1870, was less than the increase for 1870, compared with 1869, by \$270,042 16; and the increase of expenditures for 1871, compared with 1870, was greater than the increase for 1870, compared with 1869, by \$740,590 32.

If, in addition to the ordinary revenues, the Department be credited with \$700,000 appropriated for transportation of free matter and the amounts drawn and expended for subsidies to steamship lines, it will appear that the deficiency provided out of the general Treasury for the year 1871 is \$2,928,058 66, against \$2,814,116 98 for the year 1870.

The accompanying report of the Auditor fully sets forth the details of the financial operations of the Department.

The estimated expenditures for the year ending June 30, 1873, are.....	\$27, 489, 750 00
The revenues, estimated at 10 per cent. increase over last year.....	\$22, 040, 749 00
Standing appropriations for free matter	700, 000 00
	22, 740, 749 00
Leaving a deficiency of	4, 749, 001 00

The foregoing estimates do not include the following special appropriations in the nature of subsidies:

For mail steamship service between San Francisco and Japan and China	\$500, 000 00
For like service between the United States and Brazil.....	150, 000 00
For like service between San Francisco and Sandwich Islands.....	75, 000 00
Total	725, 000 00

Of the deficiency appropriated for the year 1870 there was unexpended
 at the close of that year the sum of..... \$4,740,000 00
 Amount appropriated for deficiency in 1871..... 4,685,032 00

A total of..... 9,425,032 00
 There were drawn during the last fiscal year of the
 amount unexpended at the close of the year 1870 for
 payments on account of that year..... \$1,050,000 00
 Of the amount appropriated for the year 1871..... 1,650,000 00

A total of..... 2,700,000 00

Leaving in the Treasury, unexpended, the sum of..... 6,725,032 00

Against which there are chargeable sundry unliquidated accounts,
 estimated as follows :

Excess of expenditures over receipts during year just
 closed \$226,858 66
 For balances to foreign countries 275,000 00
 For mail service under contract and recognized, but not
 yet reported 527,867 95
 Mail service still unrecognized 249,195 00

1,278,921 61

Leaving, after settlement of all liabilities to June 30, 1871, a net balance
 of deficiency appropriations of 5,446,110 39

The number of adhesive postage-stamps issued during the year was
 498,126,175, representing..... \$14,630,715 00
 Stamped envelopes, plain, 49,954,625, representing 1,432,474 75
 Stamped envelopes, "request," 48,111,650, representing..... 1,434,181 50
 Newspaper wrappers, 6,609,000, representing..... 132,180 00

The whole number of stamps, envelopes, and newspaper wrappers was
 602,801,450, of the aggregate value of..... 17,629,551 25

The increase in the issue of stamps, stamped envelopes, and news-
 paper wrappers is best exhibited by the following table :

Description.	Fiscal year ended June 30, 1870.	Fiscal year ended June 30, 1871.	Increase, amount.	Increase per cent.
Adhesive postage-stamps	\$13,976,768 00	\$14,630,715 00	\$653,947 00	4.67
Stamped envelopes, plain	1,297,159 00	1,432,474 75	135,315 75	10.43
Stamped envelopes, request.....	1,084,250 00	1,434,181 50	349,931 50	32.27
Newspaper wrappers	98,605 00	132,180 00	33,575 00	34.05
Aggregate	16,456,782 00	17,629,551 25	1,172,769 25	7.13

The number of packages of postage-stamps lost in the mails during
 the year was six, representing \$258; and of stamped envelopes three,
 representing \$51 70; being much less than the losses from similar
 delinquencies in 1870 and previous years.

CONTRACTS—TRANSPORTATION STATISTICS.

There were in the service of the Department on the 30th June, 1871, 7,286 contractors for the transportation of the mails.

Of mail routes in operation there were 8,951, aggregating in length (exclusive of special routes) 238,359 miles, in annual transportation 107,572,794 miles, and in annual cost \$11,529,395. Adding the compensation of railway post-office clerks, route-agents, local agents, mail-messengers, mail-route messengers, and baggage-masters in charge of registered passages, amounting to \$1,875,526, the aggregate annual cost was \$13,404,921.

The service was divided as follows:

Railroad routes: Length, 49,834 miles; annual transportation, 55,557,048 miles; annual cost, \$5,724,979—about 10.30 cents per mile.

Steamboat routes: Length, 20,334 miles; annual transportation, 4,684,778 miles; annual cost, \$776,943—about 16.58 cents per mile.

Other routes, on which the mails are required to be conveyed with "celerity, certainty, and security:" Length, 168,191 miles; annual transportation, 47,330,968 miles; annual cost, \$5,027,473—about 10.62 cents per mile.

There was an increase over the preceding year in length of routes of 7,127 miles, in annual transportation 10,547,798 miles, and in cost \$644,742. Adding the increased cost for railway post-office clerks, route, local, and other agents, \$404,636, the total increase in cost was \$1,049,378.

The foregoing statements of distances and costs do not include service for "special" offices. There were at the close of the year 2,115 of these, each with a mail-carrier whose pay from the Department is not allowed to exceed the net postal yield of the office. "Special" routes and their carriers are included, however, in the number of contractors and routes as given above.

The new railroad routes put in operation during the year 1871 amounted to 6,107 miles; during 1870, to 4,190 miles; and during 1869, to 3,519 miles—making in the aggregate an addition in three years of 13,816 miles to the 36,018 miles in operation on July 1, 1868. The increase in three years exceeds 38 per cent., and in the last year alone it reached the unparalleled proportion of 17 per cent

READJUSTMENT OF PAY ON RAILROAD ROUTES.

The regular four-years term of contracts for the transportation of mails in the States of West Virginia, Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, and Arkansas expired June 30, 1871. In anticipation of the close of the term, returns of the amount and character of the mail service performed on railroad routes in those States were obtained, as a basis for the readjustment of the rates of compensation for the new term commencing July 1, 1871. These returns, with those from a num-

ber of routes in other States, are presented in Table E, hereto appended, from the office of the Second Assistant Postmaster General. The readjustment founded upon these returns, and also the adjustment of rates on certain new routes, are exhibited in Table F. The rates were increased on fifty routes, and decreased on nine, the net excess of the present over the former amount of annual pay being \$205,448 87. Table F embraces ninety-five routes in all, of which thirty-six are new.

In both my former reports I have advocated a revision and readjustment of the rates of compensation for the transportation of mails on railroads, but as yet no effective action has been taken by Congress. The Department continues to encounter many annoying difficulties in its efforts to secure a rapid transmission of the mails, particularly those containing newspapers, to the South and West, owing to complaints by the managers of railroads of the inadequacy of their pay, and their refusal to allow the use of their fastest trains and most commodious mail-cars. It is important to the service that this long-pending controversy should be settled, and hence I again renew my recommendation that the act of 3d March, 1845, be so amended as to allow a fair and reasonable increase of the compensation of railroad companies, upon condition that they shall enter into contract with the Department for the prompt and faithful performance of their duties.

POST-ROUTE MAPS.

The work on the preparation and publication of the series of post-route maps of the United States has been continued during the past year under the supervision of the topographer of the Department. Six maps in all, comprising fifteen sheets, on a large scale, are now completed, embracing the northern tier of States, from Maine to Wisconsin. These maps are in constant demand, as brought up in successive editions, to be furnished, when considered requisite, to postmasters and other agents of the Department. They are also furnished to members of Congress, for their convenience in correspondence with their constituents and with the Department. During the past year the double-sheet map of the States of Michigan and Wisconsin has been completed by the engraver. The compilation and engraving of a map, in four sheets, of the States of Illinois, Iowa, and Missouri are being pushed forward as fast as the peculiar nature of the work, involving the great and rapid changes and extension of the mail service in that region, will allow.

I renew my previous recommendation that an effort be made to secure some more precise and correct system of survey than now exists in some of the Middle and Southern States.

FINES AND DEDUCTIONS.

The amount of fines imposed upon contractors, and deductions made from their pay, on account of failures and other delinquencies, for the

last year, was \$75,256 71, and the amount remitted during the same period was \$10,076 94, leaving the net amount of fines and deductions \$65,179 77, as will appear by the following recapitulation :

Amount of fines	\$4, 132 02
Amount of deductions	71, 124 69
Total	75, 256 71
Amount remitted	10, 076 94
Net amount	65, 179 77

MAIL-BAGS, LOCKS, AND KEYS.

A table appended to this report exhibits in detail the number, description, and cost of mail-bags, locks, and keys purchased and issued during the year. The total number of new mail-bags procured and put in service was 60,400, of which 54,000 were used for transmission of printed matter, and 6,400 for letter-mails. Their cost was \$86,015. Contracts for furnishing mail-bags of all kinds were made during the year, according to law, after due advertisement, at prices averaging about 18 per cent. less than the last contracts for similar articles.

The necessity of substituting new kinds of mail-locks and keys for those formerly in use demanded very large purchases during the year. The number of locks of the new kinds purchased was 100,000, and of keys 63,000, at a cost of \$68,190. Adding \$1,273 40, the cost of repairs, the total expenditures are shown to be \$69,463 40.

THROUGH MAILS.

Tables accompany the report of the Second Assistant Postmaster General, giving interesting details relative to the transmission of through mails from Washington, New York, Boston, Cincinnati, Chicago, and St. Louis to San Francisco and back; from Washington to New Orleans and back; from New York to New Orleans and back, by different routes; and from New York to Memphis and back, by different routes.

On the route to San Francisco and back, the gratifying regularity noted in the last annual report has been fully maintained. Of 644 mails carried through, during the year ended with the month of September, 1871, to San Francisco from New York, 569 were conveyed in schedule time, and only 75 behind time, against 573 in time and 145 behind time the preceding year. Of 364 mails carried through to New York from San Francisco, 321 were conveyed in schedule time, and only 43 behind time, against 280 in time and 72 behind time the preceding year. The average time, going west, was 173 hours, or 7 days, 5 hours—nearly 3 hours less than the average the preceding year. The average time, going east, was 169 hours, 45 minutes, or 7 days, 1 hour, and 45 minutes—nearly 3 hours less than the average the preceding year. The shortest time, going west, was 162 hours; going east, 167 hours; against 144

hours, 40 minutes, going west, and 159 hours, 10 minutes, going east, the preceding year.

Between New York and New Orleans, one mail a day is still sent in each direction over the *Southwestern* route, *via* Washington, Lynchburgh, Knoxville, Chattanooga, and Grand Junction, and one over the *Western* route, *via* Cincinnati, Louisville, Humboldt, and Grand Junction, at which last-mentioned point the two routes unite and run on the same road to New Orleans. Of 357 mails carried through, during the year ended with the month of September, 1871, by the *Southwestern* route, to New Orleans from New York, 236 were conveyed in schedule time, and 121 behind time, against 214 in time and 149 behind time the preceding year; the average time being 93 hours, 9 minutes—29 minutes more than the average the preceding year. Of 357 mails carried through, by the same route, to New York from New Orleans, 224 were conveyed in schedule time, and 133 behind time, against 221 in time and 142 behind time the preceding year; the average time being 95 hours, 36 minutes—54 minutes less than the average the preceding year. The shortest time, going south, was 85 hours, 29 minutes; going north, 85 hours; against 84 hours, 54 minutes, going south, and 85 hours, 30 minutes, going north, the preceding year. Of 355 mails carried through, by the *Western* route, to New Orleans from New York, only 127 were conveyed in schedule time, and 228 behind time, against 121 in time and 235 behind time the preceding year; the average time being 89 hours, 45 minutes—5 minutes more than the average the preceding year. Of 304 mails carried through, by the same route, to New York from New Orleans, only 70 were conveyed in schedule time, and 234 behind time, against 126 in time and 182 behind time the preceding year; the average being 93 hours, 24 minutes—5 hours, 8 minutes, more than the average the preceding year. The shortest time, going south, was 77 hours, 30 minutes; going north, 77 hours; against 75 hours, 45 minutes, going south, and 77 hours, going north, the preceding year. These figures show a slight improvement of the service on the *Southwestern* route, and on the *Western* a deterioration, yet not so great as wholly to destroy its usefulness as an adjunct to the other route, on a portion of which, between Washington and Chattanooga, until recently, only a single train a day was run. Arrangements are now in progress for the transmission of double daily through mails over the *Southwestern* route.

An order was made in June last to transfer the great through mails for and from New Orleans to the line of the Alabama and Chattanooga Railroad, diverging from the *Southwestern* route at Chattanooga, Tennessee, and running thence, by an air-line, to Meridian, Mississippi, and thence over the Mobile and Ohio and the New Orleans, Mobile and Texas Railroads, by which it appeared the time of transit might be reduced twelve hours; but the execution of the order was prevented by the interruption of the running of trains on the Alabama and Chattanooga road, so that the capability of that line as a route for the through mails remains yet to be tested by actual experiment.

DAILY MAIL TO CALIFORNIA.

An arrangement was made in January last to accommodate the citizens of California with a daily mail to and from the East, without the intermission occasioned previously by the lack of Sunday service between Chicago and the Missouri River. For this purpose, an allowance of \$25,000 per annum was made, from January 22, 1871, to the proprietors of the Chicago, Burlington and Quincy and the Burlington and Missouri River Railroads, the companies named being alone responsible to the Department for the service, but having the option of performing it on any one of the three lines between Chicago and Omaha, viz: the Chicago, Burlington and Quincy and the Burlington and Missouri River, *via* Burlington, Iowa; the Chicago and Northwestern, *via* Clinton, Iowa; or the Chicago, Rock Island and Pacific, *via* Rock Island, Illinois. The service has been performed in a manner entirely satisfactory to the Department and to the citizens interested.

MAIL DEPREDACTIONS.

The number of complaints of missing letters during the year is 4,600, of which 2,057 were registered and 2,543 unregistered, containing bonds, drafts, and currency to the nominal amount of \$418,748 92. Of registered letters, 659 were accounted for as received at their destination, and only 283 have been reported as actually lost. The remaining cases are in the hands of special agents for investigation.

For violations of the postal laws, 123 persons have been arrested, of whom 51 have been convicted and sentenced to different degrees of punishment, and the remainder are in the hands of the Department of Justice to be dealt with according to law.

RAILWAY POST-OFFICES.

The statement hereto appended shows an increase of eight lines and 2,956 miles of railway post-office service. The number of lines in operation on the 30th day of June, 1871, was 49, extending in the aggregate over 11,208 miles of railroad and steamboat routes. Upon 8,660 miles the service is performed daily, upon 2,527 miles twice daily, and upon 21 miles four times daily, equivalent in all to 13,798 miles each way daily. Counting all the lines both ways, the aggregate service is 27,596 miles daily, and 10,072,540 miles annually. The number of clerks employed was 513, at an annual cost of \$649,400, against 375 clerks, at a cost of \$442,600, for the previous year, showing the increased cost for the fiscal year to be \$206,800. Of this amount, the sum of \$28,600 was expended for the equalization of salaries, the clerks in the western division and on two lines in Massachusetts, numbering in all 143, having been paid, previous to July 1, 1870, for the same class of duties, each \$200 per annum less than those upon the other lines. Deducting this sum, the increased expenditure is \$178,200.

During the last year, the Union Pacific Railroad, 1,032 miles in length, from Omaha, Nebraska, to Ogden, Utah, has been added to this service, and it has been decided to extend this line over the Central Pacific Railroad, an additional distance of 881 miles, from Ogden, Utah, to San Francisco, California.

There is twice-daily service between Portland, Maine, and Chicago, Illinois, and over the greater portion of this route the mail-cars are carried upon the fastest passenger trains, thereby insuring the delivery of all through and way mails in the shortest possible time.

Arrangements have recently been completed to establish a continuous line of railway post-offices from Portland, Maine, over the Maine Central and the European and North American Railways, to Vanceborough, at the boundary-line between New Brunswick and the United States. The authorities of the Dominion of Canada will connect and continue a similar service to St. John, New Brunswick.

Partial arrangements have also been made for a line of railway post-offices from Washington, D. C., to New Orleans, Louisiana, an organization having been effected this month (November) as far as Chattanooga, Tennessee. From that point to New Orleans the service will be established as soon as the negotiations, now pending, can be concluded.

On the 15th instant, a line of railway post-offices was also established from Milwaukee, Wisconsin, to Saint Paul, Minnesota, for the purpose of securing a more accurate and expeditious distribution of the mails for the States of Wisconsin and Minnesota.

The distance from Vanceborough, Maine, to San Francisco, California, *via* Boston, Albany, Buffalo, Toledo, Chicago, and Omaha, is 3,832 miles; and from Vanceborough to New Orleans, *via* Boston, New York, Philadelphia, Baltimore, Washington, and Chattanooga, is 2,108 miles. It is the purpose of the Department to establish continuous lines of railway post-offices connecting these remote points and supplying all diverging lines. They will be the longest lines in the world, and will afford the most ample facilities now known for the transmission and distribution of the mails between the States and Territories which they will respectively traverse.

Special efforts have been made during the past year to perfect the distribution of mail matter upon the several lines. Thorough schemes of distribution have been carefully prepared and furnished the clerks, thus enabling them to facilitate greatly the delivery of mails by the quickest attainable routes.

The value of the railway post-office system was especially demonstrated after the destruction, by fire, of the great distributing post-office at Chicago, Illinois, on the 9th of October last. But for the lines leading to the West and concentrating at Chicago, the mails for the extreme Western and Northwestern States would have been seriously interrupted for many weeks. During the month of October, besides the letter-mails,

a large portion of the great paper-mails for the States mentioned were successfully distributed on the cars and passed to their destination with the usual dispatch.

The want of sufficient room upon the cars now in use prevents, however, the proper distribution of the large through paper-mails, subjecting them to frequent delays at the various distributing offices for separation, while the letter-mails go directly forward to their destination.

FOREIGN MAILS.

The total number of letters exchanged, during the year, with foreign countries, was 20,295,998, an increase of 1,936,620 over the number reported for 1870. Of this number, 10,461,868 were sent from, and 9,834,130 were received in, the United States.

The number of letters (single rates) exchanged in the mails with European countries was 14,113,560, an increase of 912,114 over the number reported for 1870.

The total postages on the letters exchanged with foreign countries amounted to \$1,735,266 32, being \$229,298 16 less than the amount reported for 1870.

The aggregate amount of postage (sea, inland, and foreign) on the letter-mails exchanged with the United Kingdom of Great Britain and Ireland, Germany, Switzerland, Italy, The Netherlands, Belgium, and France, was \$1,181,057 41, being \$264,885 19 less than the amount reported for 1870. The postages on letters *sent* exceeded the postages on letters *received* from the same countries in the sum of \$5,802 15, being less than one-half of one per cent. of the aggregate amount. The postages collected in the United States amounted to \$755,724 39, and in Europe to \$425,333 02, the excess of collections in the United States being \$330,391 37, or 28 per cent. of the entire postage receipts.

Comparing the year 1871 with the year 1870, the rate of increase in the total number of letters exchanged in the mails with foreign countries was $10\frac{1}{2}$ per cent., and the rate of decrease in the amount of postages thereon was $11\frac{3}{8}$ per cent. The increase in the number of letters exchanged with European countries was nearly 7 per cent., and the decrease of postages thereon amounted to $18\frac{3}{16}$ per cent.; this large reduction in postage receipts having resulted from the greatly reduced rates of international postages established between the United States and the different countries of Europe, which came into operation during the latter half of the fiscal year 1870, but the full effect of which was not realized until the year 1871. The most important of these reductions was that made between this country and the United Kingdom of Great Britain and Ireland on January 1, 1870, when the single rate for prepaid letters was reduced from 12 to 6 cents, causing a like reduction of 6 cents per single rate in the postage charges on letters to and from all countries and places served by the British mails. This was followed by reduced postage charges, from 15 to 10 cents per single rate, on the letters

exchanged by closed mails, *via* England, with Germany, Belgium, Italy, The Netherlands, and Switzerland, including all countries and places to which they respectively serve as intermediaries, which came into operation near the close of the last fiscal year. Reduced rates of postage were also established, at the same time, to countries on the west coast of South America, British Columbia, Sandwich Islands, New Zealand, Australia, and the East Indies.

The total weight of the mails exchanged, during the year, with European countries, under provisions of existing postal conventions, was 1,298,966 pounds; the weight of the letter correspondence being 281,905 pounds, and of printed matter and samples 1,017,061 pounds. The aggregate weight of the mails sent to Europe was 627,591 pounds, and of mails received from Europe 671,375 pounds. The weight of letter correspondence sent to Europe was 155,601 pounds, and of letter correspondence received from Europe 126,304 pounds.

The cost of the United States transatlantic mail steamship service for the year 1871 was \$174,138 39, being \$148,153 48 less than the cost of the same service during the year 1870. The steamships employed under contract with this Department received the sea postages of 6 cents an ounce on letter-mails, and 6 cents a pound on other matter, as full compensation for the service. The earnings of the respective lines were as follows, viz :

The Liverpool and Great Western line, for 53 trips, from New York to Queens- town	\$60, 805 3 ⁴
The Inman line, for 53 trips, from New York to Queenstown and Liver- pool	49, 537 35
The Cunard line, for 49 trips, from New York to Queenstown and Liver- pool	22, 178 81
The Hamburg-American Packet Company, for 29 trips, from New York to Plymouth and Hamburg	20, 415 69
The North German Lloyd, of Bremen, for 48 trips, from New York to South- ampton and Bremen	15, 676 32
The Canadian line, for 52 trips, to Liverpool	5, 524 84
Total	<u>174, 138 39</u>

The United States postages on the mails conveyed to and from the West Indies, Mexico, Panama, South Pacific, Belize, (Honduras,) Nova Scotia, Newfoundland, and Bermuda, amounted to \$125,780 93, and the cost of the sea conveyance thereof was \$76,857 32. The United States postages on the mails exchanged with Brazil, Japan and China, the Sandwich Islands, New Zealand, and Australia, by means of the subsidized lines of direct mail steamers, amounted to \$46,993 52.*

The total cost of the United States ocean mail steamship service for the year 1871 (including \$725,000 paid from special appropriations for steamship service to Japan and China, to Brazil, and to the Hawaiian Islands) was \$975,995 71.

The mail steamship service on all the ocean routes has been regularly performed according to contract. The transatlantic mails have been conveyed exclusively by foreign steamship lines, receiving, under the general law, the sea postages thereon as compensation for the service. Regular monthly service has been maintained on the United States mail steamship routes to Japan and China, to Brazil, and to the Hawaiian Islands. There is no doubt that an increase of service from monthly to semi-monthly trips on the Brazil and China lines would greatly promote their efficiency for postal and commercial purposes. The great length of each of these routes, between ports distant from each other 5,500 and 7,000 miles, respectively, renders a monthly mail service on either of them disjointed and inadequate for rapid reliable postal communication. This is peculiarly the case with regard to the mail service performed on the United States and Brazil line. The schedule of sailing-days is the best that can be arranged for a monthly service on a route of that length, and allows, at most, only two days at New York between the arrivals and departures of the steamers, so that merchants in Boston, Philadelphia, Baltimore, and other Atlantic seaboard cities are usually unable to answer correspondence or fill orders by the return steamers, causing them great delay, inconvenience, and loss. The result is that a majority of the letters from the United States for Brazil are forwarded in the British mail *via* Southampton, reaching their destination by that circuitous route sooner than if detained a month for transmission by the next direct steamer from New York to Rio de Janeiro. It is manifest, therefore, that a monthly service on this commercially important route is inadequate to the wants of the public, and fails to accomplish the purposes which Congress had in view in granting a money subsidy to this line of steamers.

In my report of last year I renewed the recommendation of the preceding year for an increase of mail service to semi-monthly trips on the route from San Francisco to Japan and China. I am still impressed with the importance of authorizing additional trips on this line, the establishment of which has already given us the control of the large and rapidly increasing commerce of the North Pacific Ocean with Japan and China; and, for like considerations, I deem it expedient that suitable provision should be made for increasing the service from monthly to semi-monthly trips on the steamship line from New York to Rio de Janeiro.

An application was made to Congress at its last session, by American citizens, for governmental aid in establishing an American line of mail steamships between San Francisco, New Zealand, and the Australian colonies, by way of the Sandwich Islands. A bill granting a money subsidy to the proposed line was reported by the Senate Committee on Post-Offices and Post-Roads, but it failed to pass the Senate, as did all other similar bills proposing Government aid to projected steamship lines. Disappointed in obtaining the desired legislation from Congress,

the projectors of this enterprise entered into a contract for the contemplated service with the government of New Zealand, which government had previously signified its readiness to assist, by a moderate subsidy, in establishing a direct postal communication by steamships with the United States. An American line of steamships has thus been placed upon the route between San Francisco, New Zealand, and Australia, *via* the Sandwich Islands, and is now carrying our mails regularly once in four weeks from San Francisco, under the patronage of the New Zealand government, with the expectation, on the part of the proprietors of the line, that additional aid to maintain this service will be granted by Congress at the approaching session. There can be no question of the commercial importance to the United States of establishing and maintaining a direct and rapid steam communication by American steamships with the countries and islands of the Southwest Pacific Ocean. Such a line will secure to our citizens a large share of the trade of those colonies, now rapidly growing in population and wealth, and greatly benefit the general business interests of the country. A large portion of the heavy traffic and travel between Europe and Australia, which has heretofore taken the routes *via* Suez and the Cape of Good Hope, will be transferred to the American route *via* San Francisco, if reliable and rapid steam communication shall be permanently established between that port and the countries of Australasia. Already, since the inauguration of direct steamship service from San Francisco, heavy English mails are being transported across our continent to and from New Zealand and the Australian colonies, the time occupied in their conveyance to destination being less by nearly two weeks than by the Suez route. As manifest considerations of public policy and commercial advantage make it desirable to sustain a first-class line of American steamships upon this route, the question of uniting with the Australian colonies in the support of the existing service by a moderate money subsidy is respectfully submitted to Congress for its consideration and appropriate action.

In previous reports I have called attention to the importance of judicious legislation to encourage the establishment of American mail steamship lines. For several years past we have practically ceased, as a nation, to compete with other maritime powers in ocean steam navigation. Various projects have been devised and urged upon Congress by interested parties, many of them without capital or practical experience in steam commerce, seeking large subsidy grants, in a variety of forms, for the conveyance of our mails in American steamships to European ports. Much valuable time has been devoted by the Post-Office committees and by Congress to the consideration and discussion of the many conflicting schemes presented for their action, without accomplishing any practical results; and the transportation of our mails, passengers, and freights across the Atlantic is still performed exclusively by the steamship lines of other nations. Surely some legislation

is demanded to revive the great maritime interests of the country and encourage the construction and equipment of an efficient ocean steam mercantile marine. The subject is one of paramount importance to the material interests of the country, and should receive the most thorough and careful attention of Congress.

It is a very gratifying fact, in this connection, to state that, amid all the discouragements of the present situation, a new line of American iron steamships, to ply between Philadelphia and Liverpool, consisting of four first-class propellers of 3,000 tons each, (old measurement,) are now being built on the Delaware for the American Steamship Company of Philadelphia, of materials exclusively of American manufacture. They will be completed and ready for service early in the fall of 1872, and will form a regular weekly line between the above-named ports. The proprietors of this pioneer line of American iron steamships are among the most enterprising merchants and capitalists of Philadelphia, and deserve such encouragement in their praiseworthy undertaking as can properly be extended by Congress. A reasonable compensation for conveying the mails, in excess of the postage receipts, is probably the only Government aid needed to insure the permanent establishment of this or any other similar line of American ocean steamers plying between our own and foreign ports; and, in my judgment, the granting of such incidental aid, in connection with proper legislation to encourage the construction by American builders of first-class iron steamships, is the most simple, economical, and practical method of establishing American lines of ocean steamers and advancing the general commercial prosperity of the country.

An additional article to the postal convention between the United States and Germany was signed at Washington March 3, and at Berlin May 14, 1871, reducing the postage on direct letter-mails exchanged between the two countries, a copy of which is annexed. Arrangements have also been concluded with the German postal administration, and carried into operation on the 1st of October, 1871, further reducing the postage charge for prepaid letters between the United States and Germany transmitted by closed mail *via* England from 10 to 7 cents per single rate, and also the postage charges for prepaid letters by the direct routes *via* Bremen and Hamburg, respectively, from 7 to 6 cents per single rate.

Postal conventions have been negotiated with the republic of Ecuador and with the Argentine Republic establishing and regulating the reciprocal exchange of correspondence with each of those countries at reduced rates of international postage. The duplicate originals of said conventions have been transmitted to those governments, respectively, for ratification, and notice was recently received through the Department of State that the convention with Ecuador had been ratified by the congress of that republic.

Negotiations are in progress with the governments of Denmark, Swe-

den, and Norway for the conclusion of postal conventions ameliorating the exchange of correspondence and reducing rates of postage between the United States and each of those kingdoms. I have every reason to hope for the early conclusion of the desired conventions.

I have also submitted to the Russian government, through its minister at Washington, propositions for a postal convention with Russia providing for an exchange of correspondence with that country in closed mails *via* England and Germany, at moderated postage charges.

Negotiations have been renewed for a postal convention with France, but I regret to state that there is little prospect of a favorable result. Modified propositions, based on the liberal provisions of our postal arrangements with Germany and other leading countries of Europe, were submitted by this Department more than a year ago, at the request of the French minister at Washington, and transmitted by him to his government for consideration and instructions. No reply having been received, the attention of Mr. Washburne, our minister to France, was recently invited to the subject, with request to bring these proposals to the notice of the French government, and, if possible, have them considered and acted upon by the proper authorities at Paris; but I am not advised that any action has yet been taken.

APPOINTMENTS.

The report of the Appointment Office shows the following:

Number of post-offices established during the year	2, 407
Number discontinued	854
Increase	1, 553
Number in operation on June 30, 1870	28, 492
Number in operation on June 30, 1871	30, 045
Number to be filled by appointments of the President	1, 172
Number to be filled by appointments of the Postmaster General	28, 873

Appointments were made during the year:

On resignations	4, 307
On removals	1, 179
On changes of names and sites	178
On deaths of postmasters	309
On establishment of new post-offices	2, 407

Total appointments

Number of cases acted on during the year

The number and aggregate compensation of special agents, route-agents, mail-route messengers, railway post-office clerks, and local agents in service during the year ended June 30, 1871, were:

50 special agents	\$121, 899 00
684 route-agents	671, 280 00
103 mail-route messengers	61, 910 00
513 railway post-office clerks	649, 400 00
82 local agents	58, 430 00
Total compensation	1, 562, 919 00

FREE-DELIVERY SYSTEM.

The free-delivery system has been in operation during the year in fifty-two of the principal cities, with the following aggregate results:

Number of letter-carriers	1, 419
Mail letters delivered	112, 612, 693
Local letters delivered	27, 045, 760
Newspapers delivered	32, 610, 353
Liters collected	113, 287, 602
Amount paid carriers, including incidental expenses	\$1, 353, 923 23
Postage on local matter	\$758, 120 78

This shows the following increase, compared with last year:

Letter-carriers	57
Mail letters delivered	14, 800, 862
Local letters delivered	5, 248, 111
Newspapers delivered	4, 743, 330
Letters collected	15, 496, 556
Amount paid carriers, including incidental expenses	\$123, 843 38
Postage on local matter	\$76, 256 08

EMPLOYÉS IN THE POST-OFFICE DEPARTMENT.

The following table will show the number of employés in the Post-Office Department; also the number of postmasters, contractors, clerks in post-offices, route-agents, railway post-office clerks, and other officers, in service on the 30th June, 1871:

Department officers:

Postmaster General	1
Assistant Postmasters General	3
Superintendent of Foreign Mails	1
Superintendent of Money-Order Office	1
Chief of division of dead letters	1
Chief clerk of Department	1
Chief clerks of Bureaus	4
Clerks, laborers, watchmen, &c	319
Total departmental	331

Other officers:

Postmasters	30, 045
Contractors	7, 286
Clerks in post-offices	3, 439
Letter-carriers	1, 419
Route-agents	684
Railway post-office clerks	513
Mail-route messengers	103
Local agents	82
Special agents	52
.....	43, 623
Total in service	43, 954

DEAD LETTERS.

The number of letters, domestic and foreign, received at the dead-letter office during the last fiscal year was as follows:

Domestic letters, classed as—	
Ordinary	2, 931, 244
Drop	492, 300
Unmailable	373, 363
Hotel	26, 732
Fictitious	66, 264
Registered	6, 162
Returned from foreign countries	77, 010
Total domestic letters	3, 973, 075
Foreign letters	221, 673
Whole number	4, 194, 748

Of domestic letters not registered, 16,218 contained money amounting to \$59,608 37, in sums of one dollar and upward; and of the registered letters, 2,359 contained \$19,204 61, making a total of 18,577 letters, containing \$78,812 98. Of these, 17,082, containing \$74,420 90, were delivered to the writers or persons addressed; 2,902, containing \$10,397 02, which could not be returned to the owners, were filed for reclamation; and 1,495, containing \$4,392 08, were outstanding. The number inclosing sums less than one dollar was 14,956, containing \$3,808 92; of which 12,413, containing \$3,094 90, were delivered to the writers, and 2,543, containing \$714 02, were filed for reclamation.

The number of letters containing bank checks, drafts, deeds, &c., was 19,193, of the nominal value of \$3,075,869 23; of which 17,905, of the nominal value of \$2,855,030 31, were delivered to the owners, and 1,288, of the nominal value of \$220,838 92, were outstanding or filed for reclamation.

The number of packages and letters containing jewelry, books, and other property was 6,498; of which 4,298 were delivered, and 2,200 were filed for reclamation.

The number containing photographs was 42,119; of which 36,544 were delivered, and 5,575 were filed. The number containing receipts, bills of lading, &c., was 28,196; of which 27,081 were delivered, and 1,115 were filed. The number containing postage and revenue stamps and articles of small value was 40,749; of which 37,889 were delivered, and 2,860 were filed.

The number of letters without inclosures remailed to the writers was 1,628,803; of which 1,334,303 were delivered, and 294,500 were returned to the office and destroyed. The number in which the writer's name and local address were omitted or were illegible, and of letters containing circulars, &c., and consequently destroyed, was 2,173,984.

Of the unmailable letters, 301,472 were detained for postage, not being prepaid, as required by law. They were either wholly unpaid,

were not prepaid one full rate, or were stamped with illegal or revenue stamps; 68,373 were misdirected, the post-office, State, or some necessary part of the address being omitted; and 3,518 had no address whatever.

The number of applications for dead letters was 7,371, and in 2,471 cases the letters were found and forwarded to the owners.

The amounts deposited in the United States Treasury were—

For unclaimed dead-letter money during the year.....	\$8, 480 16	
For unclaimed dead-letter money on July 5, 1871.....	2, 200 00	
		<u>\$10, 680 16</u>
For proceeds of sale of jewelry, books, &c		1, 669 35
For proceeds of sale of waste-paper during the year.....	\$2, 229 45	
For proceeds of sale of waste-paper on July 1, 1871	1, 248 75	
		<u>3, 478 20</u>
Total deposited to July 5, 1871.....		<u>15, 827 71</u>

POSTAL MONEY-ORDER SYSTEM.

During the last fiscal year, the number of money-order offices in operation was 2,076. On the 31st of July, 1871, 376 additional money-order offices were established, so that the whole number of such offices is at present 2,452.

The number of domestic money-orders issued during the year was 2,151,794, the aggregate value of which was	\$42, 164, 118 03
The number of such orders paid was 2,121,664, amounting in value to	\$41, 705, 667 03
To this sum is to be added the amount of orders repaid to the purchasers.....	321, 669 28
Total of payments.....	<u>42, 027, 336 31</u>
Excess of issues over payments.....	<u>136, 781 72</u>

The amount of fees or commissions paid by the public to postmasters for the issue of orders was \$295,286 15.

This statement shows an increase over 1870, in the amount of orders issued, of \$8,109,923 32, or 23 $\frac{1}{4}$ per cent.; in the amount of orders paid, of \$8,099,411 52, or 23 $\frac{1}{4}$ per cent.; and in the amount of fees received, of \$60,050 35, or 25 $\frac{1}{2}$ per cent.

The average amount of the money-orders issued during the year was \$19 59. This amount varies but little from year to year, not having fallen below \$19 for the last five years, and having only once slightly exceeded \$20.

The whole number of duplicate orders drawn was 8,858, of which 8,725 were issued in lieu of original orders which failed to reach the respective payees because of their change of residence, or because of erroneous or imperfect address, or for other causes; 111 were substituted for orders which became invalid because not presented for payment before the expiration of one year after date; and 22 for orders

rendered invalid in consequence of bearing, contrary to law, more than one indorsement.

The increase in the number of duplicates during the last year was 1,683, or 23½ per cent., nearly the same rate of increase as that of the orders issued and paid.

The receipts and expenditures of the last year, as adjusted and reported by the Auditor, were as follows, viz:

Receipts:	
Fees received for money-orders issued	\$295,286 15
Amount received for premium on drafts	277 23
Total	295,563 38
Expenditures:	
Commission to postmasters and allowances for clerk hire....	\$177,773 56
Allowances for remittances lost in transmission by mail.....	7,715 00
Incidental expenses for stationery and fixtures.....	8,893 04
	<u>194,381 60</u>
Excess of receipts over expenditures, being revenue derived from the trans- action of the money-order business.....	<u>101,181 78</u>

During the past year, the amount of surplus money-order funds accruing at the smaller post-offices from the sale of money-orders, and by them remitted to and deposited in the larger or first-class offices designated as their depositories, was \$30,965,223 35.

Forty-two remittances, to the aggregate amount of \$11,053 52, were reported as having been lost in transmission by mail last year, of which the sum of \$4,492 52 was recovered through the efforts of special agents of the Department; the sum of \$2,627 was allowed to the credit of postmasters who furnished satisfactory proof that they had, respectively, duly remitted the several amounts stated by them; credit claimed for remittances to the amount of \$495 was disallowed; and claims amounting to \$3,439 were unsettled and pending at the close of the year.

The total amount of allowances made to postmasters during the year for lost remittances was \$7,715; but of this amount the sum of \$5,088 was on account of losses during previous years.

The drafts drawn by postmasters whose money-order payments habitually exceed their issues against credits furnished them to a designated amount, in each case, with the postmaster at New York, amounted to \$3,850,227 86. Funds amounting in the aggregate to \$58,636 15 were also furnished by the postmaster at San Francisco to postmasters in the Pacific States and Territories who required assistance to pay orders drawn upon them.

Out of the whole number of orders paid, viz: 2,121,664, payment of 30, amounting to \$922 68, was claimed to have been improperly or fraudulently obtained. In nine cases, the amount of the orders, \$381 54, was recovered by special agents and paid to the rightful owners. In five cases, amounting to \$141, the paying postmasters were held responsible

for the erroneous payment and required to pay over that amount to the several persons entitled to receive it. The Department refunded the amount of two orders, for \$45, improperly paid, the postmaster not having been found at fault. In four cases, amounting to \$81, the claim for compensation was not allowed, as it was discovered upon investigation to be without good foundation. Ten cases, of the value of \$274 14, are still pending.

From the establishment of the money-order system, on the 1st of November, 1864, the profits accruing from its operations have been as follows, viz :

Proceeds from November 1, 1864, to July 1, 1866.....	\$90 82
Proceeds during the fiscal year 1867.....	26, 260 61
Proceeds during the fiscal year 1868.....	54, 158 15
Proceeds during the fiscal year 1869.....	65, 553 87
Proceeds during the fiscal year 1870.....	90, 174 63
Proceeds during the fiscal year 1871.....	101, 181 78
	<hr/>
	337, 419 86

Postmasters are allowed, by the standing regulations of the Department, "to make deposits of surplus money-order funds, by procuring from any disbursing officer of the United States a check on an assistant treasurer or designated depository thereof located in the same city or town as the post-office where the deposit is to be made." This mode of remittance is not only very convenient for postmasters of money-order offices at or near military posts, but is often the only means by which they can forward their surplus funds without extreme danger of loss. The Treasury Department, however, by the Second Comptroller's circular of May 15, 1871, notified disbursing officers that it would decline thereafter to approve any duplicate check except for "additional bounty and pensions, as specially authorized by law," for the reason that Congress, at its last session, declined to pass a bill providing a general system for the issue and payment of duplicates of lost checks drawn by disbursing officers of the United States. Hence, if such check, drawn in consideration of money-order funds received from a postmaster, is lost or destroyed, the money which it represents is lost to this Department. A case of this kind has already occurred, a quartermaster's check for \$522, in favor of the postmaster at New York, having been lost in course of transmission by mail by the total wreck of a steamer off Cape Hatteras. For this check no duplicate can now be obtained. Under these circumstances, I would respectfully suggest such legislation as would authorize disbursing officers of the Army, under regulations to be prescribed by the Treasury Department, to issue duplicates of lost checks drawn by them in favor of one postmaster on account of public moneys received from another.

By the act of February 13, 1865, any assistant treasurer or depository of the United States is allowed, in case of sickness or unavoidable ab-

sence from his office, to authorize, with the approval of the Secretary of the Treasury, his chief clerk, or some other clerk employed therein, to act in his place, and to discharge all the official duties required of him by law, "provided that the official bond given by the principal of the office shall be held to cover and apply to the acts of the person appointed to act in his place in such cases." The interests of the postal service require the passage of an act giving postmasters at money-order offices similar authority in like circumstances.

The recommendation made in my last report with reference to the expediency of additional legislation to authorize the extension of the money-order system to the stations or sub-post-offices in the large cities is respectfully renewed.

During the year 1871, the amount, in currency, received by postmasters for orders issued by them on the exchange office at New York in favor of payees in Switzerland, was \$38,489 56. The amount of orders paid in the United States on account of remittances from Switzerland was \$12,003 53; showing an increase over the corresponding transactions of last year of \$16,299 86, or 73.45 per cent., in the issues, and a decrease of \$8,447 39, or 70.37 per cent., in the payments. From the commencement of the international system with Switzerland, on the 1st of September, 1869, to the close of the last fiscal year, a period of twenty-two months, the amount of orders issued by the United States offices for payment in Switzerland was \$60,679 26, and the amount of orders paid on account of remittances from that country was \$32,454 45. After payment of the entire balance due Switzerland on account of this exchange of money-orders, a net profit of \$4,521 21 accrued to the United States, the expenses proper, exclusive of the premiums paid for gold funds purchased to pay balances found due periodically to Switzerland, having amounted to but \$51 87. The total cost of such premiums was \$2,623 77.

It was stated in my last annual report that negotiations were in progress for the establishment of an international system of postal money-orders between the United States and the United Kingdom of Great Britain and Ireland. As these negotiations, which were conducted by means of epistolary correspondence for a period of eighteen months, failed to effect an agreement as to the provisions of such a system, I decided, in May last, to send a competent officer of this Department to confer personally with the postal authorities of the United Kingdom upon the points in controversy. The Superintendent of the Money-Order System was accordingly dispatched to London for that purpose on the 25th of that month, as a special agent, duly authorized to negotiate the terms of a convention for a money-order system between the two countries, subject to my approval, by and with the advice and consent of the President. The special agent succeeded in negotiating a convention for that object, which was signed in London June 30, 1871, and approved and signed in Washington July 27, 1871. A copy of that convention

will be found in the appendix. In pursuance of its provisions, the money-order system between the two countries went into operation October 2, 1871. From that date up to October 28, a period of four weeks, the amount of the orders remitted from this country to Great Britain was \$63,061 13, and of orders in the opposite direction \$14,684 19, a manifest indication that this system of exchange supplies an existing public want and will be extensively used by remitters of small sums to and from Great Britain.

A communication having been received May 15, 1871, from the post department of the German Empire, expressing a desire to enter into negotiations "for the introduction of the money-order system into the postal intercourse between the two countries," I instructed the special agent above mentioned to proceed, after having completed negotiations with the British office, to Berlin, and to treat with the post department of Germany as to the terms of a convention for establishing an international money-order system with that country. A convention to that end was duly negotiated, in pursuance of these instructions, with an authorized agent of the German post department, at Berlin, July 22, 1871, and now awaits complete ratification by the proper authorities of both countries. By the terms of this convention, the money-order business between the two countries is to commence on the 1st of October, 1872.

MISCELLANEOUS.

The recent experience of the Contract Office of this Department indicates the propriety of a material amendment to the laws regulating mail contracts.

On the 30th of September, 1870, advertisements were issued, in regular form, for all mail contracts in the section comprising the States of West Virginia, Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, and Arkansas. In response to these advertisements, many bids were received and duly entered, and, under the 24th section of the act of July 2, 1836, contracts were, without exception, awarded to the lowest bidders. On the 1st of July, the time when, agreeably to the advertisement and the usage of the Department, the new contractors were required to commence the discharge of their duties, it was ascertained that the bidders to whom contracts on most of the important routes had been awarded had failed to perform the service. The whole number of failing bidders was 195, and the routes thus left without regular contractors were found to be located as follows: 3 in West Virginia, 11 in Virginia, 2 in Georgia, 2 in Florida, 77 in Alabama, 2 in Mississippi, 11 in Louisiana, 42 in Texas, and 45 in Arkansas. Suspecting that the bidders who had thus failed were not acting in good faith, and that in many cases they were fictitious and what are called "straw bidders," the Department, on the 19th July last, addressed a letter to the Attorney General, stating the condition of affairs, and asking for an authoritative interpretation of the laws

as to the powers of the Postmaster General in making contracts for the conveyance of the mails.

In strict conformity with the opinion of the Attorney General, dated July 22 last, the Department proceeded to make temporary contracts, on the best terms attainable, for six months, or longer, in the discretion of the Postmaster General, and to readvertise, for the residue of the contract term, all the routes whereon service had failed. The new advertisements, for a reletting from January 1, 1872, to June 30, 1875, were issued on August 4, 1871, and the new awards were made on the 1st of November, instant.

It was hoped that, under the operation of the 4th section of the act of March 3, 1871, which required all bidders to accompany their bids for five thousand dollars or over with a certified check or draft, payable to the order of the Postmaster General, for an amount not less than five per cent. of their bids, and which was applied, for the first time, to the bids under the last-named advertisement, a more favorable result would be obtained. I regret, however, to be obliged to say that the bids under the last advertisement are in no respect an improvement on those under the first, and that, of all the routes readvertised, only two were awarded to bidders who bid over five thousand dollars and who gave evidence of honesty of purpose by accompanying their bids with a check for five per cent. of the amount thereof.

This second failure satisfied me that, under existing laws, it is impossible for the Department to secure a fair competition among responsible parties who are willing and able to perform the required service for a fair price. Herewith I file a statement of the Second Assistant Postmaster General, showing the number and termini of all the routes readvertised, the compensation under the old contracts, the amount of failing bids, the cost per annum of temporary service for six months, and the amount of accepted bids for the same from January 1, 1872, from which it will appear that the cost of temporary service is largely in excess of the cost of a like amount of service under the regular contracts, which expired on the 1st of July last.

Hoping to frustrate like attempts to defraud the Government in the future, I respectfully recommend that the laws regulating mail contracts be so amended as to make it a misdemeanor, punishable by fine and imprisonment, for any person who, after bidding for mail service and receiving an award thereof, shall fail to make a contract in due form and perform the service described in his bid or proposal, and also so as to declare it to be a misdemeanor, punishable in like manner, for any person to withdraw or attempt to withdraw, after the day appointed for the opening thereof, any bid he may make for such service, until a contract therefor shall have been duly signed and accepted and the contractor shall have proceeded to perform his duties thereunder to the satisfaction of the Postmaster General. I furthermore recommend that additional power be given to the Postmaster General to reject manifestly fraudulent

or fictitious bids, and, after a regular bidder or contractor shall have failed to enter into contract, or to fulfill his contract when made, to proceed to contract on the best terms obtainable from any responsible party, whether a bidder or not, for the performance of the service for the residue of the contract term. If it be deemed advisable to continue in force the provision requiring certified checks or drafts to accompany the bids, then I recommend that the amount of the check or draft in each case be fixed at five per cent. of the last regular contract price, where said contract price exceeded \$5,000. This would compel bidders to make deposits in support of their proposals on all the more important routes, and would not leave open, as now, an opportunity to the fraudulent bidder to defeat the law by simply reducing his bid below five thousand dollars.

The Postmaster General being required by a clause of the first section of the civil appropriation act of March 3, 1871, to fix the rates to be paid for telegraphic dispatches by the several Departments of the Government, I called to my assistance Brigadier General Albert J. Myer, Chief Signal Officer of the Army, and, upon his recommendation, supported by the legal opinion of Hon. William Whiting, specially retained as Assistant Attorney General, I passed an order, dated June 29 last, declaring—1st. That the rates for all telegraphic communications known as the signal-service messages and reports should be two cents for each word for each circuit over which it may pass in accordance with the schedule of circuits and plans of the Chief Signal Officer of the Army, and that no additional or extra allowance should be made under any pretext whatever; 2d. That for all other communications on behalf of the Government the rate should be one cent per word for each distance of two hundred and fifty miles or fraction of such distance. The views of General Myer are fully stated in a communication addressed to the Postmaster General, dated 18th of July last, and made part of this report.

The postal telegraph is by far the most important subject now inviting consideration in connection with the transmission and interchange of intelligence. The governments of the continental countries of Europe have, with few exceptions, claimed and exercised for years past the right of controlling and managing the electric telegraph, and in every instance with a degree of success commensurate with the care and attention bestowed upon their respective administrations. In Sweden, Norway, Russia, Bavaria, Italy, Turkey, Greece, and Spain, great advantages have been gained by making the telegraph a part of the public postal system; while in Switzerland, Belgium, The Netherlands, Prussia, and France, where modern appliances and improvements have been more thoroughly utilized, the policy of governmental control has been fully vindicated. It remained for Great Britain to give a practical test of the public system as compared with the management of corporations and companies of private stockholders. After a protracted and

most laborious investigation, Parliament passed, on 31st July, 1868, "An act to enable Her Majesty's Postmaster General to acquire, work, and maintain electric telegraphs," which was followed on the 9th August, 1869, by an act providing the money necessary to purchase the undertakings of the several telegraph companies in Great Britain and Ireland. On the 5th of February, 1870, the transfers were effected, and the work of the postal telegraph began. At first, serious difficulties were encountered by reason of the delay in passing the money bill and the inadequate preparations to accommodate the immense increase of business which immediately followed the large reduction of rates. These difficulties, however, were soon overcome, and, thanks to the indefatigable and intelligent labors of Hon. Frank Ives Scudamore, second secretary, and his assistants, the advocates of the measure can already boast of its triumphant success. The charges established in the beginning were uniform throughout the United Kingdom, without regard to distance, and were fixed at the maximum permitted by law, that is to say, one shilling (24 cents) for the first twenty words or part of twenty words, and threepence (six cents) for each additional five words or part of five words, exclusive of signature and address. Referring to an elaborate report of Mr. Scudamore, it appears that the average cost of inland messages was about one shilling, one penny, (26 cents,) against an average cost prior to the transfer of one shilling, sevenpence, (38 cents,) showing a reduction in price of nearly one-third. In the first week after the transfer, the number of messages (exclusive of news and press messages) forwarded from all stations was 128,872; in the week ending 31st March, the number had risen to 160,775. The average weekly number in 13 weeks, to 30th June, was 177,410; the average number in 13 weeks, to 30th September, was 200,787; and the average number in 13 weeks, to 31st December, was 203,572. In the week ending on the 31st December, which is usually considered the worst week in the year for telegraphic work, the number was 144,041, or nearly 16,000 in excess of the number of the first week. The total number of messages forwarded in the three quarters, to 31st December, 1870, was as follows:

In quarter to 30th June.....	2, 306, 340
In quarter to 30th September.....	2, 610, 237
In quarter to 31st December.....	2, 646, 432
	<hr/>
In three quarters.....	7, 563, 015
	<hr/>

In addition to the foregoing, ample provision was made for the press and news work. The companies, before the transfer, sent news to 306 subscribers in 144 towns only in the United Kingdom; the postal telegraph sent news to 1,106 subscribers in 365 towns. The companies sent news to 173 newspapers only; the postal telegraph sent news to

467 newspapers: showing an increase of 221 in the number of towns to which news was sent, an increase of 800 in the total number of subscribers for news, and an increase of 294 in the number of newspapers taking news. There was, moreover, a vast increase in the quantity of news transmitted. The companies sent, during the session of Parliament, nearly 6,000 words of news daily; during the remainder of the year, they sent nearly 4,000 words daily. The postal telegraph sent, during the session of Parliament, in behalf of the news associations, nearly 20,000 words of news daily; and during the remainder of the year, nearly 15,000 words daily. The postal telegraph also transmitted from 15,000 to 20,000 words daily for the ordinary newspaper correspondents; and seven newspapers rented special wires during the night at the uniform rate of £500, instead of rates ranging from £750 to £1,000, as before. Two other wires were about to be rented to newspaper proprietors at the close of the year, and many more could have been rented if the department could have spared them. There has been doubtless a still further increase of messages during the current year. By an official statement received from the British office, the number of messages for the week ended September 23, 1871, is shown to be 256,456, against 189,636 for the corresponding week of last year. This increase for a single week of 66,820, averaged through the year, would exhibit an annual increase of 3,474,640 messages. The financial results are even more satisfactory. The official report of Honorable George Chetwynd, receiver and accountant general of the British office, shows the following most favorable result for the fiscal year ended 31st March last.

	Gross receipts.		Payments out.		Net produce.	
	£	s. d.	£	s. d.	£	s. d.
Amount received for the transmission of telegraphic messages, &c., in cash.	212,519	5 4	273,281 17 3½		697,933 16 8	
Amount received for the transmission of telegraphic messages, &c., in postage stamps.	758,696	8 7½				
	971,215	13 11½	273,281	17 3½	697,933	16 8

Let it be noted that the net produce is £697,933, or, computing the pound sterling at \$4 86, \$3,391,954 38.

These facts, all tending, with overwhelming force, in one direction, demonstrate conclusively the utility of the postal telegraph for both government and people.

Some may hesitate to adopt it in this country because of the great extent of our territory, the paucity of our population in certain large sections, and the great expense involved in extinguishing the rights of telegraph companies. The first two are the same objections that were urged for many years against all ameliorations of our postal service; neverthe-

less, postages have been cheapened and made uniform, and, at the same time, the postal system has been maintained and improved. Rightly viewed, the extent of the country is a strong argument in favor of a postal telegraph and the additional facilities and uniform rates it will afford. It is only in countries of large extent that the value of instantaneous, or nearly instantaneous, communication can be appreciated. Who, that desires to convey or acquire any information, would hesitate between sending a telegram from New York to California in seven minutes for twenty cents, and sending a letter in seven days for three cents? Our sparse population is rapidly growing more dense by the acquisition of one million and a quarter of people per annum. As railroads are extended across the plains and through the mountains, they banish solitude and reclaim the wilderness with a celerity unknown to men of the last generation. The emigrant of to-day moves as part of an organized community. The railroad preserves for him a channel of constant supply, and the telegraph keeps unbroken the communication between the new and the old homestead. Before many years we shall hear complaints, not that we have too much land, but rather that we have not land enough.

It is true that a large sum of money will be required for the purchase of the present telegraph lines and their appurtenances. But if this be a difficulty, delay only magnifies it; for, admitting that the Government must at some time become the exclusive proprietor of the telegraphs, it is clear that every year will add to the amount of purchase-money it will have to pay. The companies now in existence will extend their operations, and new companies will be organized from time to time, all of whom would demand compensation for a surrender of their privileges and property. I therefore deprecate further delay as injurious to the public interests. The Post-Office Department is now prepared to undertake the organization and management of the telegraph in connection with its other duties. Indeed, I believe that the Department itself can aid materially in raising the money needed for the purchase through post-office savings banks, if Congress will authorize their establishment. The security of the Government being the best that could be obtained, many depositors would give it the preference over every other. By paying four per cent. interest, at the most, on deposits, a large fund could be readily accumulated and invested, under the direction of the Treasury Department, in the public securities. The proceeds of these investments could be used to reimburse the original purchase-money and all other expenditures for construction and repairs.

To prove the feasibility of this plan, I recur to the history of the British office. Savings banks in connection with post-offices were established in Great Britain on the 16th of September, 1861, with a limitation in the law creating them that they should not pay exceeding $2\frac{1}{2}$ per cent. interest on deposits. The following table will show with what

rapidity and to what extent they have been intrusted with the money of the people :

Period.	Number of post-office savings banks.	Number of deposits.	Amount of deposits.	Total sum standing to credit of post-office savings banks on books of National Debt Commissioners at close of the year.	Balance in hands of Postmaster General, after allowing for charges of management, at close of the year.	Total balance in hand applicable to payment of depositors at close of the year.
From September 16, 1861, to December 31, 1862....	2, 535	639, 216	£ 2, 114, 669	£ 1, 659, 032	£ 35, 692	£ 1, 694, 724
Year 1863.....	2, 991	842, 848	2, 651, 209	3, 328, 182	44, 413	3, 372, 595
1864.....	3, 081	1, 110, 762	3, 350, 000	4, 995, 663	5, 522	5, 001, 185
1865.....	3, 321	1, 302, 309	3, 719, 017	6, 582, 329	4, 327	6, 586, 656
1866.....	3, 507	1, 525, 871	4, 400, 657	8, 231, 176	25, 791	8, 256, 967
1867.....	3, 629	1, 592, 344	4, 643, 806	9, 867, 703	47, 690	9, 915, 393
1868.....	3, 813	1, 757, 303	5, 333, 638	11, 963, 053	NIL	11, 999, 400
1869.....	4, 047	1, 998, 644	5, 787, 218	13, 755, 547	19, 386	13, 774, 933
1870.....	4, 082	2, 135, 993	5, 995, 121	15, 305, 040	158, 888	15, 463, 928

The total amount in hand after ten years' operations, and for which the British government pays only $2\frac{1}{2}$ per cent. interest, is £15,463,928, or \$75,145,690—a much larger sum than will be required for the purchase and thorough repair of all the telegraphic lines in the United States.

Convinced of the wisdom of establishing the postal telegraph and post-office savings banks in this country, I earnestly recommend the passage by Congress of the laws necessary therefor. In my judgment, those laws should provide as well for the absolute purchase of the lines and appurtenances of all telegraph companies now in operation as for the exclusive right and authority of the Government, after the several purchases shall be concluded, to conduct the business of transmitting telegraphic messages.

Again I renew my recommendation for the repeal of the franking privilege. Its existence is utterly incompatible with an economical and vigorous administration of postal affairs. Flagrant frauds have been practiced during the past year, and will continue to be practiced, under its cover, so long as the privilege is protected by law. I refer to my arguments on this subject in former reports with unshaken confidence in their soundness.

The bill "to revise, consolidate, and amend the statutes relating to the Post-Office Department," known as the postal code, having failed in the last Congress, has been again introduced into the Senate. Much time and labor having been expended in perfecting it, I trust it may be passed at the approaching session with as little delay as possible. It contains some new provisions of much importance—among others, an

authority for the introduction of correspondence-cards, an improvement for which a strong desire has been manifested on the part of the public.

The salaries of the three Assistant Postmasters General and the Superintendents of Foreign Mails and the Money-Order System are entirely incommensurate with their valuable services. The Government, in simple justice to a class of officers whose faithful labors in its behalf require them to remain with their families in Washington during the entire year, should not hesitate to increase their annual compensation to \$5,000. I cheerfully reiterate my acknowledgment of their conspicuous merit and industry, and earnestly commend them to the favorable consideration of Congress.

Renewing the assurances of my high regard, I have the honor to be your obedient servant,

JNO. A. J. CRESWELL,
Postmaster General.

The PRESIDENT.

R E P O R T

OF THE

SECRETARY OF THE INTERIOR.

REPORT
OF
THE SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., October 31, 1871.

SIR: I have the honor to submit the following report of the operations of this Department during the year. In preparing it I have compressed it within the narrowest limits possible, and have also embodied such suggestions and recommendations as my observation has convinced me will conduce to the success of the several bureaus under the immediate supervision of this Department.

INDIAN AFFAIRS.

The humane and peaceful policy which has been inaugurated by the Government in the conduct of Indian affairs for the past two years has been productive of gratifying results. The board of commissioners authorized by the law of April 10, 1869, composed of citizens distinguished for intelligence and philanthropy, and serving without pay, has assisted in withdrawing from the Indian service much that has been heretofore regarded as the source of evil and injustice, and which is supposed to have prevented the success of public measures intended as a means of civilization. The services of that board have exercised a wholesome influence in establishing the new policy, and its active aid and co-operation in carrying out the measures of the Government in that behalf have been valuable to this Department.

The members of the board have visited many of the tribes of Indians in the West during the past year, inspecting their condition, and observing the progress they were making in education. They have also given their personal attention to the awarding of contracts for Indian supplies, and have exercised a careful supervision over the expenditures from the Indian appropriations. Their report will afford a more detailed statement of their transactions.

The most noticeable effect of the new policy thus far has been to suppress Indian wars and depredations, to unite tribes upon reservations designated for them by Government authority, to improve their education in letters, in the practice of agriculture and other industries, in the reformation of prevailing vices, and the generally gratifying evi-

dences of a degree of progress which offers good reason to hope for the gradual social elevation and christianization of the race.

As encouragement to those who believe in the capacity of the Indian for civilization, an examination of the report of the Acting Commissioner will show that the various tribes have raised during the year agricultural products to the value of more than eight millions of dollars, not including the products of the Cherokees, from whom no report has been received, but whose products last year were valued at over two and one-half million dollars, an aggregate of about ten millions of dollars' worth of farm produce. It will also be seen that there are 216 schools among the Indian tribes, with 323 teachers, and an average attendance of 8,920 pupils.

Though this peace policy has been generally maintained, and a better understanding of the designs of the Government toward them prevails among the Indians, excepting a few nomadic tribes in Arizona, New Mexico, and on the western borders of Texas, which have not yet been so fully reached by the influence of the new policy, outrages by those bands or tribes have been punished so promptly by the military authorities, under the influence of which the disposition to make peace is generally manifest.

Some progress is being made towards inducing the more troublesome of those tribes to accept and enter upon reservations, and there is reasonable ground to hope that it will eventually be accomplished.

For this purpose it is of importance that increased and liberal appropriations for food, clothing, and farming implements be made by Congress.

On the line of the North Pacific Railroad, in the Territory of Dakota, the Sioux have also made some offensive demonstrations against the progress of that work, but thus far judicious management has prevented serious outbreak. The hostile disposition of that numerous and powerful tribe may require skillful treatment to avoid hostilities in the future.

Encouragement is afforded to the friends of the existing policy, in the fact that the Indians long in contact with the whites, as in New York, Michigan, and Wisconsin, as also of those whose proximity to the whites is not of so long standing, as in Kansas, Nebraska, and the Indian Territory, have made considerable progress in the arts of civilization, in the cultivation of the soil, or in the pursuit of general business, with success, as well as in their increased efforts in behalf of the education of their youth.

Without progress in industrial pursuits, and in education, we cannot hope for any lasting good results from the new policy, and it should, therefore, be the first effort of the Government to so act as to encourage the Indian in those directions which will induce him to cultivate habits of industry, and foster a desire for mental and moral culture. It might be well to establish a system of compulsory education to such an extent, at least, as to withhold annuities from those individuals who refuse

or neglect to avail themselves of the educational facilities offered. This principle was adopted with the Pawnees in the third article of the treaty of 1857, and with good results.

The encouragement of agriculture might also be effectually secured by the payment of premiums for the best cultivated farm above a certain established standard of excellence.

The latter plan would not probably be productive of its legitimate results while the present system of holding their lands in common prevails, and could only be successfully carried out after the lands were divided.

These changes would entail additional and delicate duties upon agents, and would require increased vigilance in their performance. Under existing laws the salaries of those officers are too small. They should be men who have no desire to speculate upon their offices, and, therefore, should have no income beyond their legal compensation. It is a singular fact, and one, perhaps, not entirely creditable to the Government, that some of the religious denominations which have been requested to name persons for appointment as agents have been compelled, in order to secure good men, to contribute to the support of said agents while in Government employ, on account of the insufficiency of the legal compensation to their support. This is utterly inadequate to their support and every consideration of justice and economy will justify a liberal increase.

To insure a faithful performance of their duties by agents, and to secure uniformity in enforcing the Government policy throughout the various agencies, I would suggest that authority be conferred upon the Secretary of the Interior to appoint inspectors, when necessity requires, whose duty it shall be to visit the several tribes and agencies at stated intervals, and report concerning the fidelity and capacity of the agents and the condition of the tribes under their charge; to enforce uniformity of management, and to suggest such measures of reform as may seem best calculated to promote the general policy of the Government.

I deem it to be my duty, also, to urge an increase of the salary of the Commissioner of Indian Affairs. The present rate of compensation is entirely inadequate to the position. Its duties require the services of a man of intelligence, capacity, and integrity, and he should be so compensated as to secure such services. Five thousand dollars per annum would be a small salary for the services of a proper man in that important place, and, in view of the great influence he would wield in carrying out the present policy, it would be economy to increase the salary to at least the sum named.

The Indian population now under the jurisdiction of the United States, according to the most reliable data to be obtained, is about 221,000. This number includes 75,000, the estimated Indian population of Alaska, and 3,663, scattered throughout the States of Florida, North Carolina, Indiana, Iowa, and Texas, not maintaining tribal relations.

Excluding those in Alaska, and those scattered throughout the States just named, as not practically within the scope of the new policy, and the remaining Indian population is 242,371, located as follows:

Washington Territory	15,487	Wyoming	2,400
Oregon	24,503	Nebraska	6,410
California	7,383	Kansas	6,052
Arizona	5,066	Indian Territory	53,476
Nevada	6,000	Minnesota	6,377
Utah	12,800	Wisconsin	6,355
New Mexico	18,641	Michigan	8,000
Colorado	7,300	New York	4,804
Dakota	27,815		
Idaho	4,469	Total	242,371
Montana	18,835		

The Indians under the jurisdiction of the United States are now located on reservations of land amounting in the aggregate to 228,473 square miles, or 137,846,971 acres. Deducting from this statement the Indian Territory south of Kansas, and there remains a population of 172,000 occupying reservations of land amounting to 96,155,785 acres; being a *per capita* of 558 acres. The lands composing these reservations are generally of good quality, susceptible of profitable cultivation, and lie in the direct path of the settler. These reservations are generally held under treaties guaranteeing Indian possession against the intrusion of white settlement.

The Indian Territory, so called, lying west of Missouri and Arkansas, and south of Kansas, contains 44,154,240 acres of land, and a population of about 60,000. Westward to the 96° of west longitude the soil is of the very best quality, well watered and timbered, capable of producing the largest returns to the labors of the farmer. West of the 96°, and lying between that and the valley of the Arkansas River, the country is mountainous, and offers less inducements to the settler. The mountains are known to contain very rich deposits of coal, and are supposed to contain other valuable minerals. In the valley of the Arkansas River the soil is of excellent quality for a width of ten miles, while to the west of that valley the entire country, although not so desirable for location as that in the eastern portion of the Territory, is well adapted to the wants of the farmer. The present population of the Territory is but one person to every 630 acres. Could the entire Indian population of the country, excluding Alaska and those scattered among the States heretofore mentioned, be located in the Indian Territory, there would be 180 acres of land, *per capita*, for the entire number, showing that there is an ample area of land to afford them all comfortable homes.

On the other hand, such a disposition of the now scattered tribes would release from Indian occupancy 93,692,731 acres of land, and throw it open to white settlement and cultivation. This gathering together of all the outlying tribes into a comparatively small territory is

the problem now before us. The proper solution of it must, in a great measure, decide the fate of that race. If they can be brought to realize their condition as we see it, they will recognize the fact that if they do not speedily accept the friendly offices of the Government, and endeavor in good faith to work out their part of the policy, the difficulties and dangers of their past and present condition will be increased by the increasing demand for the lands now occupied by them as hunting grounds and reservations made by our rapidly growing tide of emigration. Many of the tribes recognize the condition of things which compels the conclusions and suggestions herein made, and are willing to co-operate cheerfully in the measures set on foot in their behalf.

With judicious management and a careful observance of treaty stipulations, I doubt not that the plan of gathering all the tribes into a smaller area can be successfully accomplished.

The foregoing facts induce me to regard it as of the utmost importance to the success of the existing policy that the Indian Territory be organized under a territorial government, with such restrictions and regulations as will secure the rights of the Indians in the soil, encourage them in their efforts to improve their mental, moral, and industrial condition, while, at the same time, maintaining a general supervisory control of their legislation as in the case of any other Territory.

The bill introduced at the third session of the Forty-first Congress for the organization of that Territory under the name of Oklahoma, and the Ocmulgee constitution adopted by a council of the Indian nations of the Territory in December last, are intended to accomplish the object referred to. Those instruments seem to be so carefully guarded as to secure the end desired, and will fully protect the Indian from imposition and injustice until he shall have made such progress as to enable him to protect himself.

As has been shown, the Indian Territory is of sufficient area to locate all the Indians, and give each man, woman, and child among them 180 acres of land. With such an ingathering of the now widely scattered tribes, under an efficient territorial government, and with the nucleus of partially civilized nations and tribes already there, the entire race would be so well in hand and surrounded by such influences as to be more easily managed, thus enabling the Government to work out its humane policy toward them to its legitimate results. If it shall be deemed impracticable to bring all the Indian tribes into the Indian Territory, under an organized territorial government, I am satisfied that the good results that will accrue to those who conclude to settle in that Territory, under such a government as I have indicated, will demonstrate the necessity and propriety of locating the remaining Indians under a like territorial government, to be organized in some other place, and embracing such limits and having such location as time, experience, and subsequent information shall indicate as best adapted to the accomplishment of the great object which all good men so earnestly desire.

Such an organization would have a tendency to obliterate many of the existing obstacles to Indian civilization. The traditional feuds which now keep tribes in a state of continual warfare, compelling them to live in camps for protection, would be speedily crushed out by a strong home government. The custom of holding all property in common, which is always a tax upon industry, and a premium upon indolence and unthrift, would be abolished. Frequent changes of reservations, the source of so many of our troubles with that race in the past, would cease. The rewards of industry would be so liberal as to obliterate their long-standing prejudice against labor, while the lack of opportunity to engage in the chase, or in hostile raids, would soon do away with the desire to engage in those diversions, and those who were not convinced of the propriety of industry would soon be compelled to recognize its necessity.

We must not expect too great results from the immediate operation of the new policy. We cannot hope to make intelligent, law-abiding citizens of a race of unlettered barbarians in a day, in a year, or a decade. Time is required to change those habits which are firmly fixed by immemorial custom. Nor can we hope to mature a perfect system by a single act of Congress. We can only shape a policy, and arrange its details gradually, as experience dictates, after a careful observance of the results of measures already in operation.

Few of those now actively engaged in promoting the existing policy may live to see its full fruition, and it may never succeed, but no candid philanthropic man will deny that the policy seems to be right and proper under all the existing circumstances. A Christian Government like ours owes it to her own good name, to civilization and Christianity, to use every effort for the elevation of a race which has been placed under her guardianship. Should it fail, I trust it may not be through any want of fidelity on the part of any of those now engaged in its execution. The path of duty seems clearly marked; it is ours to follow it.

During the year a number of citizens of the United States moved upon the lands of the Indian Territory adjacent to the Kansas boundary, evidently for the purpose of effecting a permanent settlement thereon. They erected improvements and began to till the soil. These trespasses gave great uneasiness to the owners of the lands, who naturally inferred that they were but the beginning of an organized movement to deprive them of their territory. Upon being informed of this condition of things, I issued a proclamation to the trespassers, ordering them to withdraw at once from the Territory, and notifying them that unless they did so promptly, force would be used to secure their removal. This step seems to have been generally effective, and but few of the trespassers remain. Trespasses of another character are still being made, however, upon these lands, by citizens of Kansas, and much valuable timber is being cut down and carried away. The effort of the Department will be to prevent these spoliations in the future, as they do much

to render the Indians uneasy as to the tenure of their lands, and the good faith of the Government towards them is seriously doubted, thus tending to retard the working out of the general policy.

The railroads authorized to be built through the Indian Territory by the eleventh article of the treaty of 1866 are in process of construction—the Missouri, Kansas, and Texas Railroad from north to south, and the Atlantic and Pacific road from east to west. The grant to those companies from the Indians was simply the right of way, and 200 feet of land in width for the occupancy of the road. The companies are anxious for an enlarged grant of lands, and that the lands lying adjacent to their roads, which are probably the most valuable in the Territory, should be open to general settlement. This is a question requiring the careful attention of Congress, and should be treated with a full consideration of the rights of the Indians, as guaranteed by existing treaties, and in connection with the general policy of the Government, not only to deal justly with them, but to secure, as far as possible, their education, civilization, and general prosperity.

At the request of the Cherokee delegation, and for the purpose of carrying out the provision of the treaty of 1866, ceding lands west of the ninety-sixth meridian, west longitude, to the Government for the purpose of locating friendly Indians thereon, a survey was ordered to establish that meridian. That survey is now in progress, and it locates the meridian about three miles west of its supposed former location. This change of that line has necessarily changed the boundaries of some of the reservations, and the tribes prejudiced thereby are greatly disturbed in consequence.

In the case of the Osage reservation, lying immediately west of the ninety-sixth meridian, and fourteen miles in width, the change of line cuts off all the rich lands lying in the valley of the Little Verdigris, or Big Caney River, and deprives that tribe of nearly all the valuable grazing and farming land in their supposed reservation.

The Seminoles have also entered complaints, showing a similar state of affairs with regard to their reservation, and doubtless other tribes will do the same.

When the report of the survey is received at the Department I will cause it to be carefully examined, and if any ground exists for supposing it to be erroneous, I will refer the whole subject to the President, and request that the attention of Congress be called to it. Should the survey prove correct, it will so materially disturb the equitable rights of several tribes of Indians as to demand, not only the serious consideration of this Department, but probably the attention of Congress.

The massacre at Camp Grant, in Arizona, and other occurrences preceding and subsequent to that affair in that Territory, have combined to produce a general feeling of hostility between the Apaches and the white settlers.

It was represented to the Department during the past summer that

Cochise, the Apache chief, was at last willing to cease his depredations, and would use his influence with his people to bring them upon a reservation, if they could be protected in going to such reservation, or while remaining thereon. To afford him an opportunity to manifest his good faith in making such offers, Hon. Vincent Colyer, Secretary of the board of Indian commissioners, was directed to visit the Territory of Arizona, and to offer Cochise the protection of the Government, while he should endeavor to bring his people upon a reservation.

Mr. Colyer set aside three temporary reservations for the purpose designated, and made encouraging progress toward inducing the Indians to enter upon them. Instructions have been given the military authorities to co-operate with the officers of the Indian Bureau, and to advise the Apaches that if they will enter upon the reservation provided for them, in good faith, and live thereon peaceably, they will receive the aid and protection of the Government, but if they do not do so, and evince any disposition to renew their depredations, they will be promptly punished. The Indian agents have also been instructed to acquaint the Indians with the designs of the Government concerning them. It is sincerely hoped that these efforts will prove successful in the early accomplishment of the purpose designed. It is a subject of profound regret that so great misunderstanding of the temper and disposition of the Indians in Arizona should exist, and it is hoped that both the Indians and the white settlers will so act in future as to give no ground for complaint.

Efforts are now being made to remove the Flatheads and Pend d'Oreilles from their location in the Bitter Root Valley, Montana, to the general reservation at Jocko Lake. Under the terms of the treaty of 1855, the President has declared it unnecessary to set aside any portion of that valley for a reservation, and has ordered the removal of the Indians now residing there to the general reservation at Jocko Lake, after paying them for their improvements, but allowing any Indians who may so desire to remain and become citizens, granting them all the privileges of citizens under the homestead and pre-emption laws. This plan will, when perfected, open up the valuable lands in the Bitter Root Valley to white settlement, and it will doubtless be speedily settled up.

The attention of Congress has been heretofore invited to the fact that some portions of certain reservations which contain more land than the Indians need should, with their consent, be sold at their fair market value, and the proceeds applied to improvements, such as building houses, fencing and breaking land, the purchase of implements and stock, and the establishment of industrial and other schools. The details of this subject will be found in the report of Superintendent Jauney, and show that the Omahas, whose reservation contains 205,000 acres, have, by petition, expressed a wish to sell from the most western portion of their reservation 50,000 acres, as near as can be separated

from the remaining part of their lands by a line running along the section lines from north to south.

The Otoes and Missourias, whose reservation contains 160,000 acres, have expressed a desire to sell about 80,000 acres, being the western half of the reservation, and lying wholly west of the Big Blue River, partly in Nebraska and partly in Kansas.

The Pawnees, whose reservation contains 288,000 acres, would sell about 50,000 acres, but the location of the part to be disposed of has not yet been determined.

I expect to submit a special report concerning these lands, together with a bill providing for a sale of such portions of said reservations as may be designated.

Mr. Janney recommends that there be established a sufficient number of day-schools for all the children between the ages of 6 and 12 years, and a manual-labor boarding-school at such reservation, in which I cordially concur.

In accordance with my request, Hon. Felix R. Brunot, President of the Board of Indian Commissioners, was present at the council of the Indian tribes occupying the Umatilla reservation in Oregon. That council was for the purpose of ascertaining the feelings and desires of those tribes relative to removing from said reservation upon the payment to them of certain specified annuities. The result of the council was the refusal of the Indians to leave their reservations.

Mr. Brunot's report fully details the proceedings of the council, and the propositions of the special commissioners, which the Indians declined to accept, and will be found with the report of the Office of Indian Affairs.

PUBLIC LANDS.

From the report of the Commissioner of the General Land Office, it appears that during the fiscal year ending June 30, 1871, the transactions of that branch of the public service were as follows:

	<i>Acres.</i>
Disposal of public lands for cash	1,329,982.37
By military bounty-land warrant locations under acts of 1847, 1850, 1852, and 1855	525,920.00
By homestead entries under act of 1862 and amendments	4,600,326.23
By agricultural college scrip locations	494,446.98
By approvals to railroads	2,911,938.36
By approvals to wagon-roads	239,068.08
By approvals to States as swamp lands and swamp-land indemnity	428,597.01
By Chippewa and Sioux Indian scrip locations	16,513.00
Making a total of	<u>10,606,792.03</u>

This statement shows an increased disposal, as compared with the preceding year, of 2,511,379.03 acres.

The cash receipts during the past fiscal year, under various heads, including fees to local officers, &c., amount to \$2,929,284 70.

The public surveys have been extended during said year over 22,016,608 acres, which, with the area already surveyed, make an aggregate of 550,879,069 acres, leaving an estimated area yet to be surveyed equal to 1,284,119,331 acres. In addition to this, the eastern boundary line of Nevada has been completed and verified in the field by astronomical observations and determinations, and a contract has since been entered into for the survey of the Utah-Idaho boundary line, which survey is now being prosecuted.

The estimates submitted by the Commissioner for the astronomical surveys of boundaries between certain States and Territories are recommended to the favorable consideration of Congress, in view of their importance as controlling questions of jurisdiction and title.

The Commissioner's report contains a very full synopsis of the laws governing the adjustment of private land-claims in California.

Special attention is invited to that part of the report relating to private land-claims in the Territories of New Mexico, Arizona, and Colorado, setting forth the necessity for further legislation in regard to such claims.

The increased value of lands in these Territories, consequent upon the extension of railroads, is rapidly attracting settlers, and it is a matter of the greatest importance to their future prosperity that the private lands should be separated from the public domain at the earliest possible period, to accomplish which result existing legislation is inadequate.

I join in the recommendation made by the Commissioner for the appointment of a commission similar to that created by the act of 3d March, 1857, for the adjustment of titles of the same kind in California, and for the enactment of a statute explanatory of the intent of Congress, as to whether the provisions of the second section of the act of March 3, 1869, (United States Statutes, vol. 15, page 342,) relating to the issuing of patents, applies only to claims confirmed by said act, or also to claims the titles to which were confirmed by previous acts, but which contained no provision for the issuing of patents.

The Commissioner, treating upon the operations of the pre-emption privilege, and the complications constantly arising under the same, thinks it questionable whether the pre-emption law, as now administered, is any longer a necessity to our public-land system, regarding the provisions of the homestead act sufficient at the date of its passage for a measure of complete substitution for the pre-emption laws, if we except the omission of the single feature of priority of settlement, which was not recognized under the pre-emption laws. I coincide with the views entertained by the Commissioner, that a complete unification of the law of settlement-rights is now not only desirable, but easily attainable, and recognizing the fact that some action should be taken to secure this; I therefore endorse the recommendation for further legis-

lation suggested by the Commissioner for the reasons detailed in his report.

Under the homestead law the necessity for additional legislation to meet special cases not contemplated or foreseen by the original framers of the law has become apparent, and when called to the attention of Congress will, I trust, receive such favorable action as will adequately meet the cases referred to.

It is also suggested, and the suggestion has my approval, that agricultural college scrip be by legislation assimilated to military land-warrants, to the extent that the same may be receivable in commutation of homestead entries. I also fully concur in that part of the report relating to homesteads which recommends that credit be given to soldiers in the late war for the full term of service rendered by them in the war, and that the same may be deducted from the term of years required by law to perfect a homestead.

In view of the reasons given by the Commissioner, I would also recommend the confirmation of all entries regularly made under the graduation acts of August 4, 1854, (now repealed,) so far as the land may be shown to have been actually settled upon or substantially improved by the original purchasers, or their assignees, to the end that this class of anomalous entries may be finally disposed of.

The operations under the mining statute of 1866 and subsequent amendments have shown a steady increase in the work of this important branch of the service. Owing, however, in a great measure, to the difficulties which are encountered in properly notifying the parties interested in any mine for which an application for patent has been made, the work has been somewhat retarded. I therefore concur in the recommendation of the Commissioner that, in order to properly notify all parties whose interests may be affected by an application for the exact ground sought to be patented, a survey of the claim should be first made, and the required notice be thereafter given for the period prescribed by law, and that at the expiration of said time no further adverse filing be received.

In the matter of the increase of compensation to the employés of the General Land Office, the suggestions of the Commissioner are well worthy the consideration of the legislative branch of the Government, with whom the remedy for the evils enumerated by him lies. The appeal is based, not upon the deserving merits of industrious clerks—which, aside from other considerations, would justify Congress in providing for their sufficient pay—but upon the absolute necessities of the Bureau, in safely and correctly administering the laws relating to the disposal of the public lands, and in perfecting titles to the homes of thousands of worthy citizens. Equally important is the request for authority to appoint special agents, at fixed compensation, to investigate charges against district land officers, and to assist in the opening of new offices. Believing, as I do, that those recommendations, if acceded to, will, in the

end, prove to be measures of actual economy, beside securing a more efficient execution of the important work of that Bureau, I have no hesitation in giving them my hearty approval.

The Bureau, under the control of the present Commissioner, has been improved in many important features, tending to insure greater efficiency in the discharge of its important and delicate trusts, and the general administration of the affairs of the Bureau has been entirely satisfactory.

PATENTS.

There were filed in the Patent Office during the year ending September 30, 1871, 19,429 applications for patents, including reissues and designs; 3,337 caveats; and 181 applications for the extension of patents. Twelve thousand nine hundred and fifty patents, including reissues and designs, were issued, and 147 extended; 514 applications for trade-marks were received, and 452 trade-marks issued. The fees received during said year amount to \$671,583 81, and the expenditures for the same period were \$560,041 67, leaving a surplus of \$111,542 14 of receipts over expenditures. The appropriation asked for the next fiscal year is \$606,400.

The number of applications for patents, including re-issues and designs, received during said year, is a small increase over the number received the preceding year, while the number of patents issued is not quite so great. It is worthy of remark, however, that the labors of the clerical force of the office are increased proportionally more than the number of applications would seem to indicate, inasmuch as each year's operations add about twenty thousand to the number of patented and rejected applications, with which the examining corps must become familiar, in addition to those previously filed. The examiners are, generally, men of distinguished ability and untiring industry, but their number is inadequate to properly and promptly discharge the increasing duties demanded of them.

The act of January 11, 1871, abolished the old form of annual report of the Patent Office, and authorizes the Commissioner to substitute therefor full copies of the specifications and drawings of all patents issued, these to be deposited in the clerk's office of each United States district court, and in certain libraries. This law was passed in the belief that there was very little public demand for, or interest in, the annual reports of the Patent Office, which belief the Commissioner thinks was not well founded, although approving of the law, and regarding it as a means of placing fuller information before those interested, and at a much less cost than before. Beside copies of the specifications and drawings for disposition under the law, other copies are printed for subscribers. These publications are rapidly becoming popular among those interested in patents, and will be of great benefit to the office in various ways. For the convenience of subscribers, the publication of the specifications and drawings has been arranged into one hundred and seventy-six dif-

ferent classes, according to their subject matter, so that subscribers need not necessarily pay for the entire issue, but only for the particular class or classes in which they may be interested.

The rapidly extending business of the office requires more room, and although additional room has been provided during the year by the transfer of the Pension Office clerks to another building, the Patent Office is still without sufficient room for the transaction of its business in a satisfactory manner.

The general business of the office has been promptly and satisfactorily administered during the term of the present Commissioner, and his efficiency and capability for its delicate duties is cheerfully attested.

PENSIONS.

There are at the present time on the pension rolls the names of 634 widows of soldiers in the Revolutionary War, a decrease of 93 since the last annual report. 49 were married prior to January 1, 1800, and 585 were married subsequent to that date.

There are on the rolls the names of 1,214 widows and children of soldiers who served in the wars subsequent to the revolution and prior to that of the rebellion, being 72 less than the preceding year.

During the past fiscal year there were examined and allowed 7,807 original applications for invalid pensions of soldiers, at an annual aggregate rate of \$491,905 80, and 3,379 applications for increased pension of invalid soldiers, at an aggregate yearly rate of \$170,522 80. During the same period 8,282 original pensions to widows, orphans, and dependent relatives of soldiers were allowed, at an aggregate annual rate of \$1,116,156, and 1,816 applications of the same class for increase of pension were also admitted, at a total annual rate of \$58,212 14. The number of claims, original and increase, admitted during the year was 21,284, and the annual amount of pensions thus granted was \$1,836,796 74. On the 30th day of June, 1871, there were on the rolls 91,290 invalid military pensioners, whose pensions annually aggregated \$8,141,734 85, and 112,428 widows, orphans, and dependent relatives of soldiers, whose yearly pensions amounted to \$14,212,551 19, making an aggregate of 203,718 Army pensioners, at a total annual rate of \$22,354,287 04. The whole amount paid during the last fiscal year to invalid military pensioners was \$12,304,520 37, and to widows, orphans, and dependent relatives, \$20,188,409 70, making a grand total of \$32,492,930 07, which includes the expenses of disbursement.

Since the passage of the act of February 14, 1871, granting pension to the soldiers of the war of 1812, and to their widows, 727 claims for pension thereunder have been allowed, at a total annual rate of \$67,792. There has been paid during the last fiscal year to pensioners of this class \$3,066 05. During the same year there were admitted 127 new applications for invalid Navy pensions, at an annual rate of \$11,804; 67 applications of the same class for increased pensions,

at an annual aggregate rate of \$2,995; 117 original applications of widows, orphans, and dependent relatives of those who died in the Navy, at an aggregate rate of \$17,394; and 7 pensions of the same class were increased at a total yearly rate of \$282. At the close of the last fiscal year there were borne on the rolls of Navy pensioners 1,377 invalids, at an annual aggregate of \$125,233 25, and 1,673 widows, orphans, and dependent relatives, at an aggregate annual rate of \$257,682, making the number of such pensioners 3,050, at a total annual rate of \$382,915 25. The total amount paid during the said year to Navy invalids was \$190,045 52, and to widows, orphans, and dependent relatives, \$391,342 09; a total amount of \$581,387 61.

The number of pensions, of all classes, granted during the past fiscal year was 17,060. During the same period there were dropped from the pension rolls, from various causes, 8,251, leaving a grand total of 207,495 pensioners on the rolls June 30, 1871, at an aggregate annual rate of \$22,804, 994 29. The amount paid during said year for pensions of all classes, including the expenses of disbursements, was \$33,077,383 63, being \$5,296,571 82 in excess of the amount paid during the preceding year. This excess is chiefly owing to the operation of the act of July 8, 1870, making pensions payable quarterly, whereby the whole amount of pensions accruing between March 4, 1870, and June 4, 1871, became due and payable within the fiscal year just closed.

There were 2,598 bounty-land warrants issued during the year, for 406,160 acres, an excess of 840 over the number issued the preceding year.

Eight thousand nine hundred and eighteen persons availed themselves, during the year, of the benefits of the act of June 30, 1870, providing for artificial limbs and apparatus for resection, or commutation therefor, of whom 7,707 preferred the latter.

There are now on file, unadjusted, 33,182 claims for invalid pension, and 35,597 claims of widows, orphans, and dependent relatives, a total of 68,779 claims. On the 13th ultimo 24,844 claims for pension of survivors of the war of 1812 had been received, and 7,101 claims of widows or such soldiers, making a total of 31,945 applications of this class, 7,871 of which have been disposed of. The Commissioner estimates the number of those now living who are entitled to the benefits of said act to be 32,444; their average age seventy-nine years; their average duration of life less than six years; and the amount that will be required to pay, during the life of the pensioner, all pensions granted by said act, \$18,095,855 44.

The act of July 14, 1862, and the acts supplementary thereto, make no provision for pension to the following officers in the naval service, their ranks having been created by acts passed subsequently to that of 1862, viz: Admiral, Vice-Admiral, rear-admiral, commodore, ensign, and secretary to Admiral and Vice-Admiral. I recommend that the right of these officers, their widows, orphans, and dependent relatives be recognized by statutory provision.

The Commissioner, in his report, furnishes much interesting information relative to the various diseases and injuries, on account of which so much of the bounty of the Government is dispensed.

The time for the biennial examination of invalid pensioners required by the act of March 3, 1859, occurred on the 4th day of September last, but the results thereof are not apparent, as the returns of the medical officers have not yet been received. The sound policy of such examinations is fully established by the experience of the office, and it is believed that the aggregate results of the recent examinations will exhibit a considerable reduction in the number of invalid pensioners.

Especial attention has been given to the investigation of frauds. Through the instrumentality of special agents, 301 persons have been dropped from the rolls during the year, and the cases of a greater number are under investigation. Thirty indictments have been found against dishonest attorneys or agents, of whom nine have been convicted, five are fugitives from justice, and the cases of sixteen were pending at the date of the Commissioner's report.

It is estimated that \$30,480,000 will be required for the pension service for the next fiscal year.

Owing to the requirements of the Patent Office for more room for offices, it became necessary, during the year, to vacate those rooms in the Patent Office building occupied by the Pension Bureau. To accommodate the latter Bureau, and at the same time to consolidate it into one building, I leased the Seaton House, in this city, for the term of five years, at an annual rental of \$10,000. That house was believed to be large enough to accommodate the entire Pension Bureau, and enabled us to vacate several outlying buildings, which have been heretofore occupied by said Bureau, and, at the same time, to save some \$5,000 per annum in rent.

The policy of renting private buildings for office uses, and of keeping valuable public records in structures liable to destruction by fire can only be excused on the ground of necessity. The Seaton House is as safe from any danger of loss by fire as the buildings which were vacated when it was leased, but it is not fire-proof, nor can any fire-proof buildings be obtained in the city.

A due regard for the safety of the public records would dictate the pressing need for the construction of suitable buildings for the comfortable and safe occupancy of the Bureaus. I therefore renew the recommendation made by several of my predecessors, that early action be taken by Congress looking to the erection of a suitable building for this Department.

OFFICE OF EDUCATION.

The report of the Commissioner of Education exhibits, in fullest detail, the interesting and important results he has achieved, although the clerical force at his command would seem to be inadequate to the proper

discharge of the duties with which the Bureau is charged. The details of the report will show the vast amount of work which the Commissioner has performed, and I take pleasure in attesting the ability, fidelity, and energy with which he has administered the affairs of his office.

It has been the design of the Commissioner to establish and maintain an intimate and constant communication with the various educational centres of the country; to seek and to supply information; to distribute documents, and to pursue original investigations. In the course of official duties the Bureau of Education has received and sent out about 2,000 written communications, has distributed about 12,000 printed documents, and has received many valuable accessions to its library. This sort of interchange is constantly and steadily increasing, and is already greater than the limited clerical force of the office can properly attend to, thus leaving very little opportunity for original investigation in its many interesting directions.

Among the workings of the Bureau may be noted :

First. The inauguration of a system of direct exchange of documents and information with foreign ministers of public instruction.

Second. Visits by the Commissioner to the whole educational field in this country, especially in the South and on the Pacific Coast, for the purpose of personally acquainting himself with prominent educators, and the demands of the work to be done.

Third. A great variety of original investigation, respecting orphanage, pauperism, crime, insanity, &c., in their relations to education.

Fourth. The papers accompanying the report of the Commissioner comprise an abstract of State and city reports for the whole Union; a *résumé* of the progress of education in Europe, Asia, and Africa; a great number of statistical tables respecting public systems of States and cities, colleges, professional schools, and other institutions, and original articles on various educational subjects by universally acknowledged authorities.

CENSUS.

Attention is invited to the report of the Superintendent of Census. The enumeration of inhabitants at the Ninth Census, as well as the collection of social and industrial statistics, which, under the American system, is made a part of the census, has been completed since the last annual report of the Department; and the compilation of the statistical tables usually published in that connection, as well as of many others, which appear to be equally desirable, has been well advanced. Appreciating the importance of giving the results of the census to the country at the earliest possible date, I have fully met the views of the Superintendent in respect to the amount of clerical force to be employed. Three-fourths, in bulk, of the statistical tables which it is proposed to embody in the three volumes of the census authorized by resolution of Congress have already been sent to press, somewhat over 1,000 pages being already in type. The compilation of the remaining tables has been begun, and

the completion of the work upon the three quarto volumes will be accomplished during the winter. I would recommend that authority be given for the preparation and publication of an octavo volume, which shall contain the most important results of the census, within each department of inquiry, in a form convenient for popular use; and that of this volume a large edition be issued, of which 2,000 copies at least shall be by law reserved, not to be distributed until the occurrence of the next decennial enumeration.

I would particularly ask attention to the facts and considerations presented by the Superintendent, which appear to require extensive and radical changes in the census law.

The act of May 23, 1850, was, of necessity, in most of its parts, a tentative measure. Even were the conditions of the country and the requirements of statistical science substantially the same at the present time as at the date of that enactment, it would be unreasonable to assume that the experience of three censuses taken under that law had not shown occasion for many and important changes, both in the machinery of the census and in its schedules. But in the twenty-one years that have elapsed since the enactment of the census law of 1850, the occupations of the people have become so greatly diversified that the present industrial schedules fail to reach some of the most vital interests of the country, and are plainly insufficient adequately to represent many of those which they assume to embrace. Within the same period, the area over which the agencies of the census are to be extended has been practically trebled, and has been made to include vast territories under conditions of settlement and of industry such as did not require to be provided for when the present law was enacted. By the creation of the system of internal revenue, and the enactment of the election law, the officers to whom the act of 1850 commits the supervision of the census work have been charged with duties so numerous and engrossing as to render it impossible for them to give to the census the time and attention absolutely necessary to its proper completion. Moreover, the whole scale of prices and of wages throughout the country has been so advanced as to render the rates of compensation, both for marshals and assistant marshals, as fixed by the act of 1850, generally inadequate; while, yet, the experience of the recent census has shown that this defect is neither to be justly nor economically remedied by any provision for a uniform per centum increase of compensation, but only by a thorough readjustment of the entire scheme. In the field of social investigation, again opened up by the act of 1850, the experience of the last year has shown that the schedules propose many inquiries for which the country is not yet prepared, and at the same time omit to notice many subjects appropriate to the census, in respect to which information is urgently required, in the interest alike of science and of good legislation. The last and most impressive reason I have to present for a general revision of the census law is that the act of 1850, while charging import-

ant and critical duties upon this Department, fails to commit to it that control over its immediate agents in the census which is recognized in every other service known to the law as essential to the satisfactory performance of duty, and even to official responsibility for results.

By the law of May 23, 1850, it is made the duty of the Secretary of the Interior, on the completion of each decennial enumeration of the population of the United States, to apportion the representation in Congress among the several States. This duty will be performed about the first of January next, in accordance with the provisions of said law, unless Congress shall in the meantime direct that a change shall be made in the existing law governing the subject.

The general plan of the report of the Ninth Census, as shown by those portions of it which are already in print, exhibits many interesting and valuable improvements in classification and arrangement over any preceding report, and the condition of the general work of the Census Bureau is so well advanced that the full reports of the census will be given to the public at a much earlier day than ever before.

The Department acknowledges the valuable services of General Walker, the Superintendent of the Bureau, whose thorough practical knowledge of the science of statistics has enabled him to effect such valuable improvements as cannot fail to be recognized by the public when the reports are issued.

GEOLOGICAL SURVEY.

In accordance with the act of the third session of the Forty-first Congress making appropriations for the continuation of the geological survey of the Territories of the United States, under the direction of this Department, Professor Hayden was appointed chief geologist. He was instructed to direct his attention to the little-known but interesting region about the source of the Yellowstone and Missouri Rivers. He took as his initial point Ogden, Utah, and examined a belt of country northward to Fort Ellis, Montana; then proceeded up the valley of the Yellowstone, explored the wonderful ranges of mountains, cañons, falls, hot-springs, geysers, &c., connected with that remarkable region. A careful topographical and pictorial chart, with soundings of the lake which forms the sources of the Yellowstone, was made. Numerous maps, charts, sketches, photographs, &c., of the entire route explored were obtained, and are now in the possession of this Department. The geologist was also instructed to direct his attention to the economical resources of the public domain, and thus a great amount of valuable notes and specimens, illustrating the agricultural, mineral, zoological, and botanical wealth of the West, was secured.

The results of this expedition show it to have been a complete success, and it is the opinion of this Department that they fully justify the liberal provision made by Congress for it. A preliminary report of the results will be presented to Congress at an early date.

To reap fully all the advantages from this survey, it is important that every facility be afforded Professor Hayden in the preparation of his reports, maps, and charts in their publication in a style in some degree commensurate with the great value of the explorations to the country and to the scientific world.

I would also recommend the continuation of the system of geological explorations so auspiciously prosecuted thus far under the direction of Professor Hayden, that all our public domain yet unknown may be brought to the attention of the country.

RAILWAYS.

The subscriptions to the stock of the Union Pacific Railroad Company amount to \$36,783,000, of which \$36,762,300 has been paid. The receipts from the transportation of passengers, freight, and miscellaneous sources, for the year ending June 30, 1871, were \$7,362,015 19. The entire cost of the road to said date (unadjusted balances with contractors not included) was, including fixtures, \$112,793,618 29. The indebtedness of the company amounted, at the time above mentioned, to \$74,653,512, of which \$27,236,512 is due to the United States.

Stock of the Central Pacific Railroad Company to the amount of \$59,644,000 has been subscribed, and \$54,283,190 paid. The receipts from transportation of passengers and freight for the year ending 30th June, 1871, were \$7,326,327 36, and the expenses \$3,745,766 24, leaving net earnings to the amount of \$3,580,560 12. At the close of said year the indebtedness of the company amounted to \$71,430,751 88, of which \$27,851,000 was to the United States. The act of Congress approved 6th May, 1870, (16th Statutes, 121,) provided for fixing the point of junction of the Union and Central Pacific Railroads within the limits of certain sections of land therein specified. On the 7th September, 1871, the Department received certified copies of resolutions passed by the companies, (that of the Union company on the 12th July, 1870, and that of the Central June 21, 1870,) fixing, in compliance with the law, "the common terminus and point of junction of said railroads at a point on the line of said roads 1,038.68 miles west from the initial point of the Union Pacific Railroad, near Omaha, the same being five miles west of Ogden and five miles west of the crossing of the Utah Central Railroad, on section 1 in township 6 north, of range 2 west, of the principal meridian and base-line of the Territory of Utah." The Western Pacific, the California and Oregon, the San Francisco and Oakland, and the San Francisco and Alameda Railroad Companies have been consolidated with the Central Pacific, as shown by its last annual report.

The stock subscription of the Central Branch Union Pacific Railway is \$1,000,000, of which \$980,600 has been paid. The receipts for transportation of passengers for the year ending June 30, 1871, were \$67,971 66, and for freight \$137,625 78. The expenses on account of the road and fixtures have been \$3,723,700, and the indebtedness of the

company (exclusive of first-mortgage bonds, \$1,600,000, and the Government loan, \$1,600,000) is \$205,076 75. On the 27th ultimo the Department received a map of the continuation of the road from Fort Riley to a junction with the Union Pacific Railroad at the one hundredth meridian of longitude west from Greenwich. On the 30th of that month this office transmitted said map to you for approval.

Stock of the Kansas Pacific Railway Company to the amount of \$8,972,500 has been subscribed and paid in. The receipts for the transportation of passengers, freight, &c., for the year ending June 30, 1871, were \$3,146,661 82. The cost of construction and equipment of six hundred and thirty-nine miles of main line and thirty-three miles of branch line is \$29,517,999 75. The road extends from the mouth of the Kansas River to Denver, Colorado, a distance of six hundred and thirty-nine miles. It was regularly opened for business on the 1st September, 1870, and since that date has been in operation, in connection with the Denver Pacific Railroad, (one hundred and six miles,) to Cheyenne, Wyoming, on the Union Pacific Railroad. The total funded debt is \$26,061,100, and the other liabilities and indebtedness amount to \$3,133,504 89, making a total debt of \$29,194,604 89, of which \$6,303,000 is due to the United States.

The amount of stock of the Sioux City and Pacific Railroad Company subscribed is \$4,478,500, of which \$1,791,400 has been paid. The receipts from the transportation of passengers, freight, &c., for the year ending June 30, 1871, were \$313,259 55, and the expenses during that period were \$216,807 34, the net earnings being \$96,452 21. The cost of the road and fixtures is \$4,650,000, and the indebtedness of the company is \$5,323,920. The line of this road commences at Sioux City, Iowa, and runs thence, by the most direct and practicable route, to a connection with the Union Pacific Railroad, at Fremont, about 48 miles west of Omaha, Nebraska. The entire length of the main line, as per map filed in this office, is 101.77 miles, besides extra tracks on each side of the Missouri River, and many miles of side-tracks; all of which, with the telegraph line, is now completed, equipped, and in successful operation. This company also owns a branch-road from Blair to De Soto, in Nebraska, about four and a half miles long, which was a portion of the Northern Nebraska Air Line, and was obtained through the consolidation of the two roads. The company have recently purchased of the Cedar Rapids & Missouri River Railroad Company the short line of road, heretofore operated by the latter corporation, between Missouri Valley and California Junction, which has proved indispensable, as affording direct communication between this road and Chicago, and also by way of Council Bluffs, with St. Louis, &c., together with the valuable depot-grounds, side-tracks, and all other improvements and buildings. The Fremont, Elkhorn, & Missouri Valley Railroad, commencing at Fremont, where it connects with this company's line, and also with the Union Pacific Railroad, has been extended to Wisner, about fifty-one

miles northwest of Fremont, and is now operated by said Sioux City & Pacific Railroad Company. This line was designed to open Northern Nebraska and create business for the last-named company, the intention being to consolidate the two lines by lease or otherwise.

At the close of the last fiscal year, June 30, 1871, the amount of subscribed stock of the Southern Pacific Railroad Company was \$5,224,000, and the amount actually paid in, \$1,994,800. Since the date of the last annual report of the company, two hundred and eighty miles have been surveyed and explored. Of this distance, nearly all the work has been on that portion of the line from Gilroy through the different passes over the Mount Diablo Range to the San Joaquin Valley. The cost of the surveys has been \$30,090 52. The amount received for the transportation of passengers is \$256,410 13, and that received for the transportation of freight is \$144,444 48. The expenses on account of the road and fixtures are \$222,427 06. The principal of the company's indebtedness on account of their bonds issued is \$480,000, and on account of the assumption of the bonded indebtedness of the San Francisco and San José Railroad Company, \$740,000, possession having been taken of the latter company's road, &c., on the 13th of October, 1870. 50.26 miles of the Southern Pacific Railroad and telegraph line have been completed and accepted by you.

The second, third, and fourth sections, of twenty miles each, of the Oregon & California Railroad, were accepted by you on the 28th February last. This portion, with the section previously accepted, makes a length of line already reported upon and accepted of eighty miles, running from East Portland, Multnomah County, Oregon, to about half a mile beyond the station of the city of Albany.

Stock of the Northern Pacific Railroad Company to the amount of \$100,000,000 has been subscribed, of which \$2,241,600 has been paid. The expenses of the company to June 30, 1871, were as follows: Surveys, \$479,603 11; construction, \$4,065,315 45; rolling-stock, \$289,634; general expenses, \$112,318 83; total, \$4,936,871 39. The indebtedness of the company to that date is as follows: First-mortgage bonds issued, \$7,441,900; bills payable for material *in transitu*, &c., \$1,465,116 87; due contractors, \$178,746 84; total, \$9,085,763 71. A map of the Minnesota division, filed in this Department on the 18th instant, shows the line so far as then located and completed, beginning at its junction with the Lake Superior & Mississippi road, near the Dalles of the St. Louis River, in Carlton County; thence running in a nearly westward course to Sandy River; thence in a general southwesterly direction to the crossing of the Mississippi River, at Brainard, in Crow Wing County; thence in a nearly westward course to the crossing of Crow Wing River; thence in a general northwesterly course to the crossing of the Buffalo River, in Clay County; and thence in a nearly westerly course to the Red River, a few miles from Georgetown, Minnesota; a distance of 228.2 miles. Three lines have been surveyed in

Dakota. The one extending from the point where the forty-seventh parallel of latitude crosses the Red River, and thence in a general westerly direction to the mouth of Heart River, Dakota, has been adopted as the line of location, and has been put under contract. The work on it is being vigorously prosecuted, the contractors binding themselves to have the line completed to the Missouri by the 1st of July next. A preliminary line has also been run from the mouth of Heart River, in a nearly westerly direction, to the Yellowstone, and from this latter point to Bozeman's Pass; and from thence several lines have been run, testing the various passes of the Rocky Mountains, through to the Columbia River. On the Pacific coast lines have been run testing all the passes through the Cascade Range between the Columbia River and the boundary line. The line from Portland to Puget's Sound has been located, following the valley of the Columbia River from Portland to Kalama, crossing the river at that point; thence following the valley of the Cowlitz River to the mouth of the Skookumchuck River, Washington Territory; from thence several lines have been surveyed, extending on both the eastern and western sides of the sound. Upon the lines, as located, the work of construction has been commenced, and twenty-five miles will be completed and in operation by the 1st of January next, as required by the company's charter.

You accepted on 3d of January the completed portion of the California & Oregon Railroad, 77.6 miles, commencing at Roseville, Placer County, California, where said road connects with the Central Pacific Railroad, and thence running northerly through the city of Marysville to a point at or near the town of Chico, Butte County, California.

The initial point of the Atlantic & Pacific Railroad is near the town of Springfield, Missouri, "upon the west line of the northeast quarter of the southeast quarter of section 12, township 29, range 22 west." As was stated in the last annual report of this Department, work on this road was commenced on the 4th of July, 1868, and fifty miles were completed, equipped, and opened for business on the 13th day of June, 1870. You have accepted said fifty miles, and also an additional section of twenty-five miles reported on since that date.

One hundred and twenty miles of the road and telegraph line constructed by the Burlington and Missouri River Railroad Company in Nebraska has been accepted by you, and the commissioners for said road were, on the 30th ultimo, instructed to examine another section of twenty miles. The initial point of this road is at Plattsmouth, Nebraska.

The Missouri, Kansas and Texas Pacific Railway Company, (formerly Union Pacific Railroad Company, southern branch,) having been authorized to extend their line through the Indian Territory, the vice-president thereof reported, under date of the 13th instant, that the extension of the road had been completed, and was then in operation from the southern boundary-line of Kansas to the Arkansas River, about

ninety miles. He states that the piers for the bridge over said river are all built, and that it will be finished by the end of the present month. The road is graded from the Arkansas to the Canadian River, a distance of forty-three miles. It is definitely located to Red River, and the company intend to have it in running order to that point by the 1st of July next, at which time the Texas Central Company promise to have their road constructed to the same point. When the connection is made, there will be one continuous line of rail from New York City to Galveston. The initial point of this road is at Junction City, Kansas, six miles from Fort Riley, and it runs thence down the valley of the Neosho River to the southern line of the State of Kansas, and extends as above stated.

The act of July 1, 1862, (12 Statutes, 498,) requires an annual report, under certain specified heads, to be made by the following-named railroad companies: Union Pacific, Central Pacific, Western Pacific, Central Branch Union Pacific, Denver Pacific, Sioux City and Pacific, and Kansas Pacific. And the act of June 25, 1868, requires that one shall be rendered by each of the companies named below: Northern Pacific, Atlantic and Pacific, and Southern Pacific. Of these ten corporations, two, the Denver Pacific Railway and Telegraph Company, and the Atlantic and Pacific Railroad Company have failed to make a report to this Department for the last fiscal year. The 1st section of the act of 25th June, 1868, (15 Statutes, 79,) requires that the "reports shall furnish full and specific information upon the several points mentioned in the twentieth section of the said act of 1862, and shall be verified as therein prescribed, and on failure to make the same as herein required, the issue of bonds or patents to the company in default shall be suspended until the requirement of this act shall be complied with by such company." In each case where additional portions of roads have been completed and accepted during the year, the instructions given by you in regard to the issuance of patents for the lands due the companies have been carried out by this Department.

CAPITOL.

The report of the Architect furnishes details of various improvements and repairs made upon the Capitol extension during the past year. The corridors leading from the Senate chamber to the hall of the House of Representatives have been enlarged, the floor of the hall between the rotunda and the old Representative hall raised to the level of the other floors, and the bronze doors taken from the corridor and placed at the center door of the east front. A steam-engine and two large fans have been placed in the basement of the south wing for the expulsion of vitiated air, and other important improvements have been made in both of the legislative chambers to effect better ventilation. The grounds on the south of the Capitol have been filled in, and a roadway made around the grounds on the north side which marks the line of the proposed street on that side. The Architect recommends that

some provision be made by Congress for inclosing, planting and otherwise improving the grounds surrounding the Capitol building which belong to the United States, and also for paving both of the streets and foot-ways around the lower grounds of the building.

The extension of the Government Printing Office building, located on North Capitol street, authorized by an act of Congress approved March 3, 1871, has been completed, and is now occupied.

That portion of G street, which lies north of the Patent-Office building between Seventh and Ninth streets is being paved with an asphaltic concrete pavement, which has been approved by the Architect, and by the owners of the property lying along the northern side of the said street.

The appropriations asked for make an aggregate of \$99,000, viz: Capitol extension, \$50,000; Capitol repairs, \$10,000; new dome, \$4,000; filling and grading Capitol grounds, \$10,000; and paving B street northeast, \$25,000.

BENEVOLENT INSTITUTIONS.

The whole number of persons who received treatment in the Government Hospital for the Insane during the year ending June 30, 1871, was 648, a number greater by 153 than were treated the preceding year; 365 were from the Army and Navy; 491 were males. 194 patients were admitted during said year; 63 were discharged as recovered, 24 as improved, and 9 as unimproved. The recoveries were 45 per cent. of the discharges including, and 66 per cent. excluding, deaths. The number of deaths during the same period was 44, leaving under treatment at the close of said year 508, of whom 309 were from the Army and Navy. 2,999 persons, of whom 1,434 were native born, have been treated at the institution since it was opened. The expenditures for the past fiscal year were \$116,702 72. The sum of \$11,170 65 was received for board of private patients, and \$1,016 18 from the sale of live-stock, &c. The estimated value of the products of the farm and garden during the year was \$10,186 12; and the live-stock, farm and garden implements, &c., belonging to the institution, are estimated to be worth \$14,118 25.

The board of visitors submit the following estimates:

For support of the institution during the year ending June 30, 1873, including \$500 for books, stationery, &c., \$130,000; erection of additional building, \$37,800; erection of two barns and poultry-house, \$9,000; new heating boilers and connections, \$6,000; and for completion of roads and walks, \$2,000; a total of \$185,300.

An act of Congress authorizing the prolonged restraint of inebriates, suggested by the board of visitors in their report, seems to be necessary to the effective reformatory treatment of cases of inebriety occurring in this District, and the passage of such an act, with carefully guarded provisions for determining the fact of confirmed inebriety, and the duration and character of the restraint, is respectfully recommended. It is understood that two or three public institutions for the care of in-

briates, already in full operation, and having many of the material appliances required for the successful, moral, and hygienic treatment of their inmates, will take patients from a distance at a rate of board but slightly in excess of the current cost of their maintenance, and the suggestion of the board, that an arrangement should be made with the proper authority of one or more such institutions to receive inebriates from the District, under the authority of such an act as Congress may see fit to pass, seems to be the only ready and feasible mode of undertaking the correction of that evil habit, which unquestionably gives rise to a large percentage of the crime and domestic suffering which are fearfully prevalent in this, as in most other large communities. Unless Congress should make a small appropriation for the payment of the board of indigent inebriates, that class might be unable to avail themselves of any legal provision that may be made for their reformation.

It is certainly to be hoped that the moderate cost for which handsome and comfortable additional wards for chronic cases have been erected, furnished, and fitted up during the past year, will be regarded by the State and municipal authorities, upon whom the obligation rests, as affording whatever additional evidence may seem to be required that the expense of properly providing for the chronic indigent does not exceed what they can fairly afford, and, therefore, what they are in duty bound to expend, if it be necessary to effect the humane purpose in view.

On the 30th ultimo there were 104 pupils in the Columbia Institution for the Deaf and Dumb, 43 of whom were received since July 1, 1870. Sixty-four of them were in the collegiate department, representing twenty-three States and this district, and 119 have received instruction since July 1, 1870, of whom 101 were males. Eight pupils have left the college during the year, and seven have left the primary department, one of whom was removed by death.

In 1867 and 1868, provision was made by Congress for the admission of a limited number of indigent students from the States into the collegiate department free of charge. Twenty-five, the number authorized, were duly admitted, and were pursuing their studies with a view to graduation when Congress, in 1870, repealed the laws under which they entered. Had not the directors been able, with funds derived from sources other than the United States Treasury, to continue to support these young men, they would have suffered the evident injustice of being dismissed from an institution to which they had been sent by the Government to be educated before the term of education for which they were entered was completed. Simple justice would seem to demand that Congress should so amend its action as to allow these youths to complete the course of study upon which they entered as beneficiaries of the United States; and, further, it would seem not improper that Congress, having established the only collegiate school for deaf-mutes

in the country, and having provided it with suitable buildings and a competent corps of professors, should make its advantages available to persons of that class in the several States. I would commend the matter to the consideration of Congress, with the suggestion that probably some method of appointment could be devised, similar to that made use of in the military and naval schools of the Government, which should secure to the people of the States an impartial distribution of the benefits of this, the only institution of its grade. The directors urge, and justly, that Congress, having aided largely in the endowment of colleges for hearing-youth, ought, in some way, to provide similar facilities for a class of persons who, though bereft of one sense, have proved themselves capable of receiving and profiting by education as readily and as fully as their more favored brethren.

The receipts for the support of the institution during the last fiscal year exceeded the disbursements \$389 40. The disbursements for the erection and fitting up of buildings were \$8,380 30 less than the receipts, and the amount received for the improvement of grounds exceeded the disbursements \$2,302 01.

The directors have purchased for the institution the estate known as Kendall Green. Eighty-one acres of land, lying within two miles of the Capitol, and adjoining the former premises of the institution on two sides, were secured, together with two dwelling houses and other valuable improvements, for the sum of \$85,000. Toward the payment of this the directors are providing by subscription for \$15,000, together with the interest that has accrued or may become due up to the 1st of July, 1872. There will then remain to be paid the sum of \$70,000, for which they ask Congress to make an appropriation. I have examined the land in question, and consider that a due regard to the interests of the institution demands its retention. Prior to the purchase of Kendall Green, the premises of the institution comprised but nineteen acres, an amount plainly insufficient. The price agreed upon for the new purchase is low, compared with the present market-value of land similarly situated, and its proximity to the old corporate limits of the city insures a prospective rise in value, promising a handsome profit, should it be found desirable hereafter to sell any portion of the land. I therefore recommend that the appropriation be made.

The board of directors submit the following estimate for the fiscal year ending June 30, 1873:

Support of the institution, including \$500 for books and apparatus	\$48, 000
Payments falling due on or after July 1, 1872, on the purchase of the Kendall Green property	70, 000
Improvement of grounds	6, 000
Deficiencies the current year	9, 500
Total	133, 500

During the last fiscal year 2,256 women were treated by the officers of the Columbia Hospital for Women and Lying-in Asylum, of whom 38 were pay-patients. One thousand six hundred and twenty-five were restored to health, 307 relieved, 2 sent to the Government Hospital for the Insane, 18 died, and 304 remained under treatment. The estimates for the ensuing fiscal year are as follows: For subsistence, medicine, salaries, fuel, light, and bedding, \$18,300; for rent of building and necessary repairs, \$5,000; making an aggregate of \$23,300, being \$4,800 in excess of those submitted for the current year. The directors report that the utmost economy in the expenditure of the hospital has been observed during the past year, and that the advance over the appropriation made for the current year is necessitated by the rapidly-increasing demands upon the institution.

JAIL AND REFORM SCHOOL.

On the 20th ultimo there were in the custody of the warden of the District jail 83 prisoners, 10 of whom were females. During the year preceding this date 1,335 persons were committed, 184 of whom were females; 896, of whom 136 were females, were convicted of various misdemeanors; 40 were sent to the Reform School; 39 were sentenced to imprisonment in the penitentiary at Albany, New York; 1,112 were released; and 1 was executed. The expenses of the jail during the year, including the cost of transporting prisoners to Albany penitentiary, salaries, repairs, &c., were \$39,583 72, being \$4,007 95 less than those of the preceding year.

I deem it incumbent upon me, at this time, to allude to the pressing necessity for a new jail-building for this District. The present structure is utterly unfit for the purposes for which it is used. The arrangement of the cells, the absence of sewerage and proper accommodations, and the poor material of which it is built, render it a most unfit place for the confinement of prisoners, whether their safe-keeping or health be considered; and solitary confinement, classification, beyond that of sex, &c., are impracticable. The insecurity of the building necessitates the employment of a much larger force of guards than would be required were a proper jail-structure to be erected, involving a considerable item of expense which would be thereby avoided.

The subject has been adverted to, at considerable length, in the three last annual reports of this Department, in one of which, that of Mr. Secretary Browning, of November 30, 1868, a full history of the matter is given. I earnestly concur in the suggestion made by Mr. Secretary Cox, in his report of October 31, 1870, that the difficulties which exist in carrying into effect existing legislation be removed by Congress, in order "that the selection of a site for a new jail-building should not be limited to one of the public reservations."

There were 46 boys confined in the Reform School on the 5th of October, 1870, and 58 were received during the year ending on the 5th ultimo,

making 104 juvenile offenders who have been cared for during said year. The criminal court committed 3, the police court 43, the board of trustees 10, the mayor of Washington 1, and the mayor of Georgetown 1; 15 had lost both parents, and 24 one. Their ages range from ten to eighteen years, the majority being from twelve to fourteen years old. All but 11 were born in this District and the adjoining States; 45 were of American parentage, and 37 were committed for petit larceny. There were discharged during said year 38, and 1 escaped, leaving 65 in the school on the 5th ultimo, although the board report that but 60 can be properly accommodated at present. Of those discharged, 2 were fully reformed, 27 were released by the expiration of their respective terms of sentence, and 9 were sent away to make room for others committed by the courts, although, in the judgment of the board, these last should have been longer detained, in order to effect a more complete reformation. They, therefore, earnestly recommend that the law governing the courts in the premises be so amended that said courts shall be required to give notice of the sentence, in each case, of juvenile offenders to the president of the board of trustees, and await his order to forward the boy to the school; and, also, that all such offenders shall be committed until fully reformed, or during their minority, giving the board discretionary power to discharge when, in their judgment, a complete reformation has been accomplished.

The board report very favorably upon the general behavior of the boys, the improvement in their morals, and their proficiency in their studies. They are required to work on the farm half the day, and to be in school the other half. Especial care is also taken for their moral and religious education.

No appropriation for the support of the school having been made at the last session of Congress, the board would have been compelled to close the school had not several humane gentlemen, merchants and others, agreed to furnish the necessary supplies, and await an appropriation by Congress for payment of their accounts. The indebtedness, thus contracted, for provisions, clothing, &c., amounts to \$3,646 49, and the treasurer of the school having permitted the superintendent to over-check upon him to the amount of \$230 97, the total indebtedness of the school on the 5th ultimo amounted to \$3,877 46. The cash expenditures for salaries, provisions, clothing, &c., during the year ending on that date, amount to \$7,066 62, aggregating, with the indebtedness of \$3,646 49, the sum of \$10,713 11, as the total expenditure of the school for said year. Unless an appropriation be made by Congress at an early date, the board state that they will be compelled to close the school.

The board report that they have been unable to obtain any money from the city of Washington since the school was commenced. The amount due prior to the recent change of government in this District was \$3,345 80, and since then the sum of \$1,034 08 has accrued, making a total of \$4,379 88. There is also due from parents and guardians the sum

of \$69 51, making an aggregate of \$4,449 39 now due from those two sources.

The experience of the past year has demonstrated the insalubrity of the present location of the school, it being exposed to the malarial atmosphere of the Potomac River. The board, therefore, earnestly recommend that, before permanent buildings for the school are provided, another location, more remote from the river, be selected, the first requirements of which shall be pure air and water, and good soil. That portion of the farm which will not be required for aqueduct purposes might be sold, and the proceeds, with an additional sum to be appropriated by Congress, applied to the purpose of the new location.

In view of the great benefits which this community must derive from an institution of this kind, and also those which would result from it as a model national institution, the board of trustees earnestly hope that Congress will make provision for erecting buildings for it sufficient to accommodate at least 300 boys.

The following are the estimates for the next fiscal year: For support of the school, \$12,000, and deficiencies of the current year, \$8,000; a total of \$20,000.

METROPOLITAN POLICE.

The Metropolitan Police force consists of 238 men, of whom 6 are detectives. In view of the fact that the population of this District is one-third greater than when the present number was fixed by law, and is rapidly increasing, the board earnestly recommends that an increase to the force be authorized to the extent of 16 sergeants and 50 privates, or patrolmen.

The members of the force have been active and vigilant in maintaining good order and protecting the rights of persons and property within the District. During the year ending September 30 last, 11,462 persons were arrested, of whom 1,980 were females. Seven thousand one hundred and fifty-two of those arrested were unmarried, and 4,427 could neither read nor write; 4,902 were dismissed, 15 turned over to the military, and 1,277 committed to the jail; 77 were sent to the Reform School, 792 were committed to the work-house, 188 gave security to keep the peace, and 43 cases were undisposed of at that date. In 557 cases minor punishments were inflicted, and fines were imposed in 3,611 cases, amounting to \$33,879 32; 4,409 destitute persons were provided with temporary lodgings, 187 lost children were restored to their homes, 323 sick or disabled persons were assisted and taken to the hospital, and 211 horses, cattle, &c., were returned to their owners. Of the number arrested, all but 2,238 were born in the United States; 7,790 were charged with offenses committed upon the person, and 3,672 with offenses against property. During the year, lost or stolen property to the amount of \$8,144 35 was recovered by precinct officers, and a large amount of money and property has been recovered, the loss of which was never reported.

The detective force made 296 arrests, recovered lost or stolen property to the amount of \$13,948 78, and rendered other valuable and important service.

The sanitary company have been actively employed in the abatement of nuisances and the enforcement of the police regulations for promoting the cleanliness and health of the city. Several important amendments to the law governing the company are submitted for the consideration of Congress.

TERRITORIAL PENITENTIARIES.

The penitentiary at Boise City, Idaho Territory, was completed on the 14th of January last, and, on the 13th of May following was, pursuant to the act of Congress approved January 10, 1871, placed in the custody of the marshal of the United States for that Territory.

The commissioners appointed by the legislative assembly of Washington to select a site for a penitentiary in that Territory selected a tract of land, situate on McNeill's Island, near the city of Steilacoom, and the deed by which the property was conveyed to the United States was submitted to, and approved by, the Attorney General of the United States. The site was approved by this Department, and proposals were invited for the erection of one wing of the building, in accordance with plans and specifications prepared by the Architect of the Capitol Extension. Three proposals were received, but as neither of them came within the amount of the appropriation made for that purpose by the act of Congress approved January 22, 1867, I was compelled to reject them all. Congress appropriated the sum of \$40,000 for the erection of penitentiaries in each of the Territories of Colorado, Idaho, Montana, Arizona, and Dakota, and but \$20,000 for that in Washington Territory. I am reliably informed that a suitable building for the reception and safe-keeping of convicts cannot be erected for a much less sum in Washington than in any of the other Territories, and therefore recommend that an additional appropriation of \$20,000, to be set apart from the proceeds of collections of internal revenue in that Territory, be made by Congress for that purpose.

Commissioners were appointed by the Governor of Wyoming to select a site for a penitentiary in that Territory, and fixed upon a tract of land, one mile square, situate within the Fort Saunders military reservation, near Laramie City. The Commissioner of the General Land Office certified that the location was on land owned by the United States, and the Secretary of War seeing no objection to a penitentiary being located upon said reservation, I approved the site, and caused proposals to be invited for the erection of one wing of the building. Several bids have been received, but none accepted, and, owing to the lateness of the season, it is probable that no active measures looking toward the erection of the building will be taken until the opening of the ensuing spring.

Inasmuch as the fund for defraying the expenses of the courts of the

United States, which also includes the cost of keeping prisoners, was transferred to the Department of Justice on the 1st day of July, 1870, the date when the law creating that Department went into effect, I respectfully suggest that additional legislation be had by Congress, with a view of transferring from the Secretary of the Interior to the Attorney General all supervision and control now exercised by the former over such convicts as come within the terms prescribed by the acts of Congress, respectively, approved March 12, 1864, March 3, 1865, March 2, 1867, June 14, 1870, and by the act to establish in the District of Columbia a House of Correction for Boys, approved July 21, 1866.

It appears to me eminently proper that the Department that has the control of the fund out of which the expenses of keeping the United States prisoners are defrayed, should also have the power of making contracts and of exercising all such control over them as is now vested in the Secretary of the Interior; and for that reason the Department of Justice is the proper one to exercise such supervision and control. I hope, therefore, that Congress will, at its next session, take such measures as may be necessary to transfer to the Department of Justice the full control of matters of this nature.

In making appointments in the clerical force of the Department, strict attention has been given to the qualifications of applicants, no appointments being made to clerkships of any grade until the applicant has been subjected to an examination touching his fitness for the position. This course has had a beneficial effect in increasing the efficiency of the working force of the various bureaus, by giving to the service a much better class of clerks. Promotions have also been made for merit and efficiency, with like beneficial results. By a strict enforcement of the system of examinations now in use in the Department, with such improvements, from time to time, as experience will suggest, the service will be improved. This plan will be continued in this Department until a better is suggested.

I am, sir, very respectfully, your obedient servant,

C. DELANO,
Secretary of the Interior.

The PRESIDENT.

R E P O R T

OF

THE COMMISSIONER OF AGRICULTURE.

REPORT OF THE COMMISSIONER OF AGRICULTURE.

DEPARTMENT OF AGRICULTURE,
Washington, D. C., November 15, 1871.

SIR : In accordance with the requirement of the act of Congress establishing the Department of Agriculture, I have the honor to submit my first annual report.

There is scarcely a nation upon earth whose people have not recently been startled into action to promote that great interest in which more than one-half the world is actually employed and upon the success of which the other portion is dependent. The segregated character of the rural population has been such as to forbid that concentration of ideas and consultation of views which are so common to all other professions and occupations. But recently, through the instrumentality of agricultural journals and the establishment of agricultural societies and colleges, farmers have been brought to discover that there is work for them to do outside of the precincts of the farm. They seem to have been startled into a determined purpose to take their place in the race of the world's progress, and to assert for themselves a position which will enable them to keep pace with all others whose goal is success in life.

It is the purpose of this Department to encourage and aid this new spirit of improvement, having due regard to "the general designs and duties" imposed by the act of Congress establishing it, which are, "to acquire and to diffuse among the people of the United States useful information on subjects connected with agriculture in the most general and comprehensive sense of that word, and to procure, propagate, and distribute among the people new and valuable seeds and plants." No language could be more comprehensive to express the power of this Department, or to enlarge the field of usefulness over which its influence may be extended; but it is this almost undefined power, and the vast expanse of this field, that render the task difficult to determine what shall be done to promote the great agricultural interests of the country. If a power thus concentrated, with agencies in every county of every State, and facilities for correspondence with all the countries of the world, should not be able to collect knowledge essential to the interests of the people, and seeds and products for distribution which are new and valuable, the failure would be traceable to its own inefficiency, and not to its want of means to do good.

There is, perhaps, no occupation in life which so greatly needs the fostering care of the Government as that of farming. There is no principle of political economy, no question of public policy, no consideration of statistical facts, no new development of scientific knowledge, which does not come home to be measured in its influence upon the results of the farm. This Department, as I view it, has been established to care for these interests, and it invokes our anxious study to know how this shall be best done. My experience in observing the workings of the Department has not been long enough to enable me either to pronounce upon its excellence or to hastily dictate points of improvement, but time and zeal in the effort to give efficiency to its work may enable me to extend its usefulness.

It will be remembered that, by the act of the 2d of July, 1862, Congress donated to the States public lands to "provide colleges for the benefit of agriculture and the mechanic arts." This was a new and important era, and may be said to mark the beginning of scientific knowledge as it pertains to agriculture. It must be conceded that the literary institutions of the country educate boys to a state of total unfitness for the occupations of the farm. The father finds his boy, after his return from an absence of a single year, to have had his thoughts and views centered upon an outside world, and when he has graduated and returns after an absence of four years, he gazes around to conclude that the farm is no place for him; his father and mother and brothers and sisters are no companions for him; his thoughts and theirs have been pursuing different paths; all congeniality of feeling is lost and gone, and he is driven to the nearest county town to prepare himself to make a poor figure in professional life, and perchance to be led into the haunts of intemperance and vice, realizing for his anxious parents not only the loss of the hardly-earned expenses of his education, but the loss of the son himself. But the boy whose acquaintance with natural science and modern languages is accompanied by the study and observation of how plants live and feed and die; how implements are formed, and how their mechanical structure and shape are adapted to the work they do; how the earth itself lives and breathes and dies; and who is accustomed to study and ponder these things as he learns the practical operations of the work itself, returns to his father's home upon the farm, proud of his father's occupation, and happy in the associations of his family and friends; and far more so because of the light which he may shed around him, the position which his education will give him among his fellows, and the success which will be sure to characterize his after life. I speak in no disparagement of, and with no desire to make unfavorable impressions in regard to universities, colleges, and schools, in which youth are trained for professional life, but I claim that the agriculturists of the country shall have a place where their youth may be imbued with the light of science, and thus fitted for agricultural life.

The wisdom of Congress having provided for the endowment of an

agricultural college in every State, these institutions are about to perform a most important part in the destinies of the country. They are yet in their infancy; professors and teachers are themselves yet untaught; agricultural education in this land is a new idea which has but now struck the public mind and is yet to be matured, and a curriculum established which shall have for its object the education of youth in the science and art of cultivating the soil. If these institutions will but confer together, and adopt such principles of action as shall be common to them all, and not inconsistent with the habits of the people in their several localities; establish subjects of study and rules of discipline and graduation; and, especially, if they will recognize and act upon the fact that this Department and they are engaged in the prosecution of a common cause, and that the Department may be made the nucleus around which may be collected the knowledge of inventions, statistics and rare facts, new and improved seeds and plants, to be disseminated, distributed, and experimented upon by the instrumentality of agricultural colleges, the farmer will be benefited to a degree which will be felt throughout every vein and artery of our common country. But, to attain this object, agricultural colleges should be distinctive in their character, and should be made to require compulsory labor of at least twelve hours a week from each of their pupils, thus training their tastes and habits, and inuring them to the daily occupation of a farmer's life, and thus, also, answering the objections often made to agricultural colleges, that their graduates at last choose the business of professional life.

An intimate relation between this Department and the agricultural colleges of the country would produce the most profitable information. If the result of their experiments in crops, the value of fertilizers, the nutritive value of various kinds of food, and the mode of planting, cultivating, harvesting, and storing were all concentrated at this Department, and analyzed and published, what a fund of knowledge would be thus collected and disseminated among the people, and how much more likely would that class who are to be benefited by this knowledge be reached through the instrumentality of these institutions than they now are by the course pursued. I do not profess to have matured the subject, and now only introduce it that it may command the consideration of the minds of men who know and feel how important it is that the agricultural improvements of the country should keep pace with the world's progress in all else.

It must be conceded that the course of agriculture in the Southern States has not been conducted with that care, skill, and regard for ultimate results which have characterized the operations of farmers in other States. While their lands are continuously devoted to cotton and tobacco until they have arrived at a state of exhaustion, those of the North are continually improving by rotation of crops, which is absolutely essential to the life of the soil itself, and without which farming

and planting had better be abandoned. These impressions have induced me to turn my attention to these States to seek some mode by which the influence of this Department may be directed to benefit them ; to find out whether their implements, and especially their seeds, may not be greatly improved ; and how, in the distribution of seeds and plants, we may best reach those to whom they may be profitably sent.

The agriculture of the Southern States suffers greatly in its interests for want of grasses, in the use of which its productions would be greatly increased, by rendering a rotation of crops necessary. It will be an effort of this Department to introduce this idea, as well as the seeds by which it may be carried out. Clover, with its deep roots, and rye-grass, a strong grower, will well endure the hot sun of the South ; and, if preceded by an application of lime, they are sure to grow luxuriantly.

The report of the superintendent of the seed division, and our correspondence with practical farmers, strongly impress my mind with the immense benefit which the distribution of seeds confers upon the country. I do not hesitate to assert that the increased production of wheat, oats, and grasses, by reason of the distribution of new and improved seeds, pays more than ten times the whole amount expended by the Government in this Department, and such is the appreciation of this by the farmers of the country that the demands upon us are daily increasing to a degree beyond our ability to supply. It is very desirable that the efforts of the Department should be especially directed to obtain the most approved cereals, grasses, and plants which the world affords, that they may be put into the hands of our enterprising people. Jute, ramie, and many other exotics may be grown here as well as in any part of the world, and they give great promise of adding very much to our agricultural productions and profits. But in the distribution of seeds I am satisfied that the mode heretofore pursued is erroneous. The quantity sent is entirely too small for even an experiment. A pint or a quart of wheat, oats, or other cereal, cannot be successfully grown, and such experiments almost uniformly fail because the quantity is too small. I need not here discuss the reasons for this, but the result is manifest to those who have tried the experiment. It would be far better to put a half or whole bushel of seed into the hands of one conscientious and careful person than to divide the same quantity among ten or twenty.

I regard, also, the mode of distribution of our annual report as very objectionable. Indeed, in my judgment, it should not be published at all, but should be entirely superseded by the monthly reports which it is now the practice of the Department to issue. These may contain all the information that should emanate from the Department during the year, and the last one, containing the Commissioner's report, should be a condensed summary of the operations of the year. But if it be the pleasure of Congress to continue the annual publication, I suggest that a much smaller number than has been customary be delivered for

gratuitous distribution, and that the greater part of the edition be deposited with the Public Printer, to be sent to all persons who would order the books and pay their first cost and postage for delivery. This, I am advised, would be 66½ cents a volume, making an allowance of 10 per cent. for the expense of wrapping and posting. The daily applications for this book, which the Department has not, convince me that thousands would gladly pay so small a sum to obtain that which they so much desire to have.

The annual report for the year 1870 has been greatly delayed by an effort to obtain statistical facts which were deemed important; but there is no reason why this publication, if it is expedient to make it at all, should not be issued as early as the month of March in each year. It will not be delayed again.

I have been so short a time in the Department that I have not yet discovered all its results nor all its powers of usefulness, and especially have I not yet been able to devise the ways and means by which these powers may be most profitably exercised for the public good. But if a natural fondness for agriculture, and a zealous interest in its success, shall enable me to give tone and character to the Department, it will not suffer in my hands. I am the more satisfied of this because I am surrounded by men of the very highest character and attainments in the several divisions to which they belong. Hence, I am never at a loss for an intelligent and satisfactory answer to any inquiry made of the Department.

DIVISION OF HORTICULTURE.

The laying out of the grounds of the Department according to the original design is progressing as rapidly as means will allow. The classified arrangement of trees in the arboretum is also very far advanced toward completion. This part of the improvement promises to be of much interest, and will, no doubt, soon be followed by the formation of similarly arranged collections in public parks, and in the grounds of public institutions, colleges, and schools.

In the exotic department a very large collection of economic and useful plants is under cultivation, and valuable accessions are constantly being received, either by purchase or through exchanges with foreign governments. It is proposed to encourage the formation of similar interesting collections in connection with the agricultural colleges, several of which have already availed themselves of the assistance of the Department in establishing conservatories, where the principal representative, medical, oil-producing, and other plants that furnish valuable commercial products may be seen and studied.

One of the most promising of fiber plants now being extensively propagated is the so-called New Zealand flax, (*Phormium tenax*.) This plant possesses a strong fiber, well fitted for cordage and similar purposes. Whether this fiber can be successfully separated from the leaves will be a question for chemical determination. The plant is adapted to cultiva-

tion in all the Southern States, and flourishes in undrained, swampy, and low lands which are unfitted for cotton or corn crops.

STATISTICAL DIVISION.

The operations of the statistical division, including the editing and issue of all the publications of the Department, have been conducted with industry and intelligence, and are becoming more systematic and comprehensive, embracing wider areas and a broader range of information. No effort will be spared to insure accuracy and completeness in this important branch of Department services.

One of the most important items of special work now engaging the attention of this division is the collection of facts illustrating the agricultural status of the Rocky Mountains and the Pacific Slope, showing the progress of settlement and colonization, the yield and quality of production, the peculiarities and profit of agricultural labor, and the wants and capabilities of that great continental area. I propose to accomplish what may be done this year, with means and facilities at command, at a beginning of such a statistical and agricultural survey; and suggest that, if it be the pleasure of Congress to make a small special appropriation for the continuance of the work in the coming year, the country would be greatly benefited.

CHEMICAL DIVISION.

Two extensive investigations in the chemical division were commenced early in the year. One of these, the analysis of several hundred specimens of cereals, carefully selected from the whole production of the country, and accompanied by full information in regard to the methods and conditions of cultivation, it is hoped will prove of general value and interest. The examination of the leaf, stem, and fruit of the grapevine, at every week of its growth, has also been undertaken, and is nearly completed. By this work it is expected that new analogies in animal and vegetable physiology will be established, and information gained which bears directly upon the diseases of the vine. Several hundred determinations of the most accurate sort are required, and the time of one assistant is entirely occupied by them.

To enable the chemist to devote himself to those important subjects in agricultural science which await and demand chemical research, I am strongly of the opinion that the public privilege should be restricted to the employment of the laboratory for such purposes only as relate to agriculture. It is evident that if the laboratory were to continue to be held subject to all the miscellaneous demands which have heretofore been made upon it, not only would original investigation be prevented, but an increase of force would be required. The law at present provides only for the employment of a chemist and an assistant.

The apparatus and fixtures of the laboratory have received a few additions, and, with the exception of occasional special needs in original research, may now be considered to be complete.

ENTOMOLOGICAL DIVISION AND MUSEUM.

During the last year the correspondence of the entomological division has largely increased, letters having been received and answered concerning injurious insects, birds, quadrupeds, and other branches of natural history, and fruits, fibers, and such subjects as relate to the museum. Investigations have been made into the habits of insects in respect to their food, transformations, &c., and into the best remedies now used to destroy those that are particularly injurious to the farmer. Full experiments have been made in rearing the silk-worm (*Bombyx mori*) on the leaves of the Osage orange, (*Maclura aurantiaca*.) The worms fed greedily, were perfectly healthy, and spun large-sized cocoons of very fair silk.

Cases are much needed for the special reception of the valuable and growing collection of insects now in boxes, and accessible only to entomologists. When such cases are provided, the entire collection will be arranged and labeled, so that the beneficial and the injurious species may be pointed out at a glance. A collection has been commenced with the design of showing the nature of the injuries by insects upon various substances, together with the economic products made by them, as cochineal, gums, &c., and their nests and cocoons. Such a collection is of special value in a cabinet of entomology, as the farmer or fruit-grower can at once identify any insect by comparison of the injury caused by it with the specimen in the cabinet.

During the year large collections of fruits and vegetables have been received from many localities. All these have been modeled and properly labeled and placed in the museum, together with a fine collection of tropical fruits from South America, done in *papier-maché*. Many other valuable additions have been made to the museum during the year, prominent among which may be mentioned the fine collection of fibers made by Dr. H. Perrine, in Florida, several years ago, and presented by the Smithsonian Institution, and a similar collection made by the botanist of the Department while in Santo Domingo; collections of insects from the Smithsonian Institution and from geological surveys; a collection of foreign game-birds by the curator; Chinese and Japanese papers, cocoons, silk, &c.; and contributions in other departments.

THE LIBRARY.

The number of volumes now in the library is 6,012, of which there have been added during the year 1,064, inclusive of 500 volumes received from the Secretary of the Interior. About one-half of the whole number added relate to agriculture and the allied sciences of pomology, entomology, agricultural geology, microscopy, and natural history, all valuable for reference on questions continually discussed in the correspondence and reports of the Department. Those donated by the Secretary of the Interior are composed principally of public documents.

The library continues to receive the journals and reports of the lead-

ing agricultural and scientific associations of the world, many of which are in exchange for the annual and monthly reports of the Department. Some of the French journals have been suspended by the war with Germany, but doubtless their publication will soon be resumed and the exchange continued. All of these works are carefully preserved, and in themselves form a useful collection for reference in the scientific and statistical investigations of the day. Many of them are probably not accessible in any other library in the country. They furnish the results of the very latest investigations in entomology, botany, agricultural geology, and microscopy, as well as experiments in agriculture, which could be abridged and published in the monthly reports of the Department before they are reproduced by the agricultural journals of the country.

Many of the sets of State agricultural reports and periodicals being incomplete, steps have been taken to supply the volumes and numbers that were missing. This has been accomplished in nearly every instance without expense to the Department. The library now contains sets, generally complete, of the transactions of the boards of agriculture of all the leading States of the Union for the last twenty years.

There are now nearly 500 volumes of miscellaneous agricultural publications at the Government bindery for binding or rebinding.

A catalogue of the library is being prepared, in which will be classified the most important subjects, so that persons wishing to investigate any particular topic can see at a glance the titles of all the works relating to it.

EXCHANGE OF SEEDS.

Since the plan of international exchanges of seeds and plants was inaugurated by my predecessor, the Department has continued the system, having found the results to be highly advantageous in adding to our collection seeds of many valuable species of useful and ornamental plants that could not be readily procured through the ordinary channels of trade, except at a very heavy outlay. Since the last report referring to these exchanges, the Department has sent two collections of tree seeds, one containing ninety-five species, and the other one hundred and sixteen, to the Royal Botanic Gardens, at Kew, England; Royal Botanic Gardens, at Edinburgh, Scotland; Royal Botanic Gardens, at Glasnevin, and Royal Dublin Society, at Dublin, Ireland; Horticultural Society of Bremen, North German Union; Botanic Gardens, at Melbourne, Australia; Royal Minister of Agriculture, at Berlin; government of Switzerland, through Mr. John Hitz, consul general; Imperial and Royal Ministers of Agricultural Affairs, Austria and Hungary; University of Christiania, Norway; Royal Gardens, Portugal; Imperial Botanic Gardens, at St. Petersburg, Russia; and the Kingdom of the Netherlands. From many of these correspondents the Department has received some valuable contributions, of which special mention may be

made of those from the Kew Gardens, the Royal Gardens at Melbourne, and the Imperial and Royal Ministers of Agricultural Affairs of Austria and Hungary. Exchanges have also been effected through the courtesy of our ministers and consuls in South America, Europe, Asia, and the Hawaiian Islands, and through these sources some of the most rare and valuable seeds and plants have been received.

During the present year correspondence has been opened with the ministers of agriculture of the South American governments for the purpose of effecting exchanges of the agricultural and other useful products of those countries which are known to be prolific of numerous medicinal and other economic plants. The result of this correspondence has been the receipt of many rare plants, consisting of palms, &c., as also donations of cereals and vegetable-seeds of rare perfection, among which may be mentioned a contribution of cereals from the president of the National Society of Santiago, Peru, embracing some of the finest specimens of wheat I have ever seen, which, with other similar contributions, will be carefully experimented with, for the purpose of testing their adaptability to our soil and climate. These South American correspondents are located in Brazil, Ecuador, Venezuela, Nicaragua, Mexico, Guatemala, and United States of Colombia. Exchanges continue with the Chinese and Japanese governments, and some valuable contributions have been received, especially from the latter.

An arrangement for exchange has been made with the colonial governments of Jamaica, which will result largely to the advantage of this Department, the colonial secretary having promised a donation of over three thousand plants of the cinchonas, embracing all the valuable varieties. This acquisition will enable the Department, at an early period, to encourage experiments in those sections of the South where there is a reasonable prospect of the successful culture of this invaluable plant, which, in the past, has been exclusively confined to certain localities in South America, but the cultivation of which has recently been commenced by the British government in the East and West Indies at a large outlay.

The international courtesies that are inaugurated and fostered by a system of mutual exchanges of the products of the soil are prolific of most valuable results. Following the successful introduction of our seeds into foreign countries, especially those in which the ruder systems of agriculture prevail, come inquiries regarding the best modes of culture, the introduction of improved machinery for the husbanding and utilizing of crops, and questions of similar import, thus extending the benefits of our improved mechanism and labor-saving farm-implements. While the advantages which must naturally flow from this source redound to the immediate benefit and permanent advancement of the important mechanical interests of this country, improved systems at the same time are introduced into those countries with which we exchange, thereby hastening their development, increasing their productions, and adding to their wealth.

THE SEED DIVISION.

The following tabular statement shows the quantity and kind of seeds issued from the seed division of this Department from November 1, 1870, to October 31, 1871, inclusive.

Cereals, seeds, and textiles.	TO WHOM SENT, AND NUMBER OF PACKAGES.						Total.
	Senators and mem- bers of Congress.	Agricultural socie- ties.	Correspondents.	Meteorological ob- servers.	Miscellaneous.	Foreign countries.	
CEREALS:							
Vegetables, 113 varieties..	108, 487	74, 098	96, 732	8, 680	76, 507	1, 429	365, 933
Flowers, 54 varieties.....	79, 886	2, 778	30, 260	6, 340	63, 921	74	183, 259
Wheat, 6 varieties.....	12, 616	4, 756	5, 644	.....	3, 359	75	26, 450
Rye, 2 varieties.....	752	4	2, 800	.....	313	.....	3, 929
Oats, 4 varieties.....	9, 943	8, 112	2, 211	.....	2, 744	50	23, 060
Barley, 4 varieties.....	1, 925	5, 518	16	.....	402	.....	7, 861
OTHER SEEDS:							
Tobacco, 5 varieties.....	16, 445	20	.....	.....	2, 070	25	18, 560
Sorghum, 3 varieties.....	664	76	.....	.....	138	.....	878
Clover, 3 varieties.....	869	335	2	.....	500	8	1, 804
Rye-grass, 2 varieties.....	64	.....	.....	.....	73	48	185
Osage orange, 1 variety.....	.....	.....	.....	.....	28	.....	28
Opium poppy, 2 varieties..	6, 480	.....	.....	.....	462	.....	6, 942
Sugar-beet, 3 varieties....	76	924	.....	.....	73	.....	1, 073
Herbs, 9 varieties.....	666	.....	.....	.....	168	162	936
Mangel-wurzel, 3 varieties.	1, 492	1, 532	.....	.....	103	.....	3, 127
Madder, 1 variety.....	.....	.....	.....	.....	79	.....	79
TEXTILES:							
Hemp, 2 varieties.....	42	.....	.....	.....	83	.....	125
Cotton, 3 varieties.....	20	.....	804	.....	376	.....	1, 200
Ramie, 1 variety.....	.....	.....	.....	.....	145	.....	145
Jute, 2 varieties.....	.....	.....	.....	.....	163	.....	168
Pea-nuts, 1 variety.....	.....	.....	.....	.....	.....	8	8
Tree seeds, 116 varieties..	.....	.....	.....	.....	.....	1, 571	1, 571
Total.....	240, 427	98, 153	138, 529	15, 020	151, 742	3, 450	647, 321

AGRICULTURAL PRODUCTIONS OF THE YEAR.

In its meteorological aspects the season has been marked by local droughts, high winds, and floods. In the later months of summer continued dry weather became rather general than local throughout a large portion of the Ohio Valley, the Missouri Valley, and the Southwestern States; and in the Rocky Mountain sections drought was more severe than usual. It is to be feared that the destruction of forests by devastating fires, and in supplying lumber and timber, will render drought, winds, and floods more frequent and severe. Heavy frosts, which proved very injurious to winter grain, were general throughout the West from April 21 to 23; and autumn frosts, which arrested the growth and maturity of crops, occurred generally from 21st to 30th of September. The month of September was cooler than the corresponding month for many

years, but the high temperature of the preceding months, and especially of August, had advanced corn and other crops beyond the point of material damage from frosts.

The injury resulting from these unfavorable meteorological conditions is mainly seen in the poorer soils, or in those in inferior mechanical condition—those in the highest cultivation and of the richest character having a power of resistance and a recuperative energy which insure good crops under circumstances apparently adverse. The records of the Department, verifying the observation of all intelligent cultivators, attest the value of perfect drainage and good culture in warding off dangers from drought and excessive moisture. Such has been the experience of the present year, which promises a moderate abundance for the supply of man and his dependent creatures of the farm. The area planted with corn was largely increased, and a larger breadth of wheat was sown. While the crop of corn will not equal the great yield of 1870, nor that of wheat the unparalleled crop of 1869, there will be an ample supply of both for the wants of this country, and tens of millions of bushels to supplement the short crops of Europe. While the product of hay is somewhat less than usual, its quality is good, and coarse forage in all sections and winter pasturage in the South and distant West are never-failing resources. Cotton will be gathered in smaller quantity, and sold at a higher price. Other crops, as a whole, promise very nearly average returns, giving moderate rewards to labor and ample supplies for necessary consumption.

FINANCIAL.

At the time I assumed the duties of Commissioner, on the 1st day of August last, the appropriations for the fiscal year ending June 30, 1871, were exhausted, except the appropriation for the "purchase and distribution of new and valuable seeds," of which there remained a balance unexpended of \$7,508 96, with unsettled bills for seeds purchased in Europe, under this appropriation, amounting to about \$7,300. Of the appropriations for the current fiscal year, the following statement exhibits the amounts disbursed and the unexpended balances, under their respective heads, on the 1st of August last :

Title of appropriation.	Amount disbursed to July 31, 1871.	Amount unexpended August 1, 1871.
Salaries	\$6,207 92	\$68,962 08
Collecting statistics	884 50	14,115 50
Purchase and distribution of seeds		45,000 00
Experimental garden	707 96	9,292 04
Contingent expenses	344 90	12,555 10
Furniture, cases, and repairs	185 50	4,514 50
Museum		2,000 00
Library	140 31	1,909 69
Laboratory	420 35	2,969 65
Improvement of grounds	7,500 00	19,300 00
Total	16,451 44	180,618 56

Showing a balance unexpended at that date of \$180,618 56, which, with strict economy, will be sufficient for the successful operations of the Department during the current year.

By a late act of Congress the financial operations of the Department for each fiscal year are to be kept entirely separate. I deem it proper, therefore, to defer until the expiration of the present fiscal year a report of these operations during the three months I have had control of the Department, when a complete report will be made.

My estimates for the appropriations necessary for this Department during the fiscal year of 1873 were made and transmitted to the Secretary of the Treasury on the 17th of October. They were based on the appropriations for the present year; reduced in some respects when it could be done without injury to the successful operations of the Department, and slightly increased in other items when the necessities of the case seemed to require it, and in all respects with reference to the most rigid economy consistent with an efficient administration of the legitimate objects of the Department. The aggregate amount estimated is less than the appropriations for the current year.

I have the honor to be, very respectfully, your obedient servant,

FREDERICK WATTS,

Commissioner of Agriculture.

His Excellency U. S. GRANT,

President.

P A P E R S

RELATING TO

THE FOREIGN RELATIONS

OF

THE UNITED STATES

TRANSMITTED TO CONGRESS WITH THE ANNUAL MESSAGE
OF THE PRESIDENT,

DECEMBER 4, 1871,

PRECEDED BY A

SYNOPTICAL LIST OF PAPERS AND FOLLOWED BY AN ALPHA
BETICAL INDEX OF PERSONS AND SUBJECTS.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1871.

MESSAGE

OF

THE PRESIDENT OF THE UNITED STATES.

To the Senate and House of Representatives :

In addressing my third annual message to the law-making branch of the Government, it is gratifying to be able to state that during the past year success has generally attended the effort to execute all laws found upon the statute-books. The policy has been, not to inquire into the wisdom of laws already enacted, but to learn their spirit and intent, and to enforce them accordingly.

The past year has, under a wise Providence, been one of general prosperity to the nation. It has, however, been attended with more than usual chastisements in the loss of life and property, by storm and fire. These disasters have served to call forth the best elements of human nature in our country, and to develop a friendship for us on the part of foreign nations which goes far toward alleviating the distresses occasioned by these calamities. The benevolent, who have so generously shared their means with the victims of these misfortunes, will reap their reward in the consciousness of having performed a noble act, and in receiving the grateful thanks of men, women, and children whose sufferings they have relieved.

The relations of the United States with foreign powers continue to be friendly. The year has been an eventful one in witnessing two great nations, speaking one language and having one lineage, settling, by peaceful arbitration, disputes of long standing, and liable at any time to bring those nations into bloody and costly conflict. An example has thus been set which, if successful in its final issue, may be followed by other civilized nations, and finally be the means of returning to productive industry millions of men now maintained to settle the disputes of nations by the bayonet and the broadside.

I transmit herewith a copy of the treaty alluded to, which has been concluded, since the adjournment of Congress, with Her Britannic Majesty, and a copy of the protocols of the conferences of the commissioners by whom it was negotiated. This treaty provides methods for adjusting the questions pending between the two nations.

Various questions are to be adjusted by arbitration. I recommend Congress at an early day to make the necessary provision for the tribunal at Geneva, and for the several commissioners, on the part of the United States, called for by the treaty.

His Majesty the King of Italy, the President of the Swiss Confederation, and His Majesty the Emperor of Brazil, have each consented, on the joint request of the two powers, to name an arbitrator for the tribu-

nal at Geneva. I have caused my thanks to be suitably expressed for the readiness with which the joint request has been complied with, by the appointment of gentlemen of eminence and learning to these important positions.

His Majesty the Emperor of Germany has been pleased to comply with the joint request of the two governments, and has consented to act as the arbitrator of the disputed water boundary between the United States and Great Britain.

The contracting parties in the treaty have undertaken to regard as between themselves certain principles of public law, for which the United States have contended from the commencement of their history. They have also agreed to bring those principles to the knowledge of the other maritime powers and to invite them to accede to them. Negotiations are going on as to the form of the note by which the invitation is to be extended to the other powers.

I recommend the legislation necessary on the part of the United States to bring into operation the articles of the treaty relating to the fisheries, and to the other matters touching the relations of the United States toward the British North American possessions, to become operative so soon as the proper legislation shall be had on the part of Great Britain and its possessions. It is much to be desired that this legislation may become operative before the fishermen of the United States begin to make their arrangements for the coming season.

I have addressed a communication, of which a copy is transmitted herewith, to the governors of New York, Pennsylvania, Ohio, Indiana, Michigan, Illinois, and Wisconsin, urging upon the governments of those States, respectively, the necessary action on their part to carry into effect the object of the article of the treaty which contemplates the use of the canals, on either side, connected with the navigation of the lakes and rivers forming the boundary, on terms of equality by the inhabitants of both countries. It is hoped that the importance of the object and the benefits to flow therefrom will secure the speedy approval and legislative sanction of the States concerned.

I renew the recommendation for an appropriation for determining the true position of the forty-ninth parallel of latitude where it forms the boundary between the United States and the British North American possessions, between the Lake of the Woods and the summit of the Rocky Mountains. The early action of Congress on this recommendation would put it in the power of the War Department to place a force in the field during the next summer.

The resumption of diplomatic relations between France and Germany have enabled me to give directions for the withdrawal of the protection extended to Germans in France by the diplomatic and consular representatives of the United States in that country. It is just to add that the delicate duty of this protection has been performed by the minister and the consul general at Paris, and the various consuls in France

under the supervision of the latter, with great kindness as well as with prudence and tact. Their course has received the commendation of the German government, and has wounded no susceptibility of the French.

The government of the Emperor of Germany continues to manifest a friendly feeling toward the United States, and a desire to harmonize with the moderate and just policy which this Government maintains in its relations with Asiatic powers, as well as with the South American republics. I have given assurances that the friendly feelings of that government are fully shared by the United States.

The ratifications of the consular and naturalization conventions with the Austro-Hungarian Empire have been exchanged.

I have been officially informed of the annexation of the States of the Church to the Kingdom of Italy, and the removal of the capital of that kingdom to Rome. In conformity with the established policy of the United States, I have recognized this change. The ratifications of the new treaty of commerce between the United States and Italy have been exchanged. The two powers have agreed in this treaty that private property at sea shall be exempt from capture in case of war between the two powers. The United States have spared no opportunity of incorporating this rule into the obligation of nations.

The Forty-first Congress at its third session made an appropriation for the organization of a mixed commission for adjudicating upon the claims of citizens of the United States against Spain growing out of the insurrection in Cuba. That commission has since been organized. I transmit herewith the correspondence relating to its formation and its jurisdiction. It is to be hoped that this commission will afford the claimants a complete remedy for their injuries.

It has been made the agreeable duty of the United States to preside over a conference at Washington between the plenipotentiaries of Spain and the allied South American republics, which has resulted in an armistice, with the reasonable assurance of a permanent peace.

The intimate friendly relations which have so long existed between the United States and Russia continue undisturbed. The visit of the third son of the Emperor is a proof that there is no desire on the part of his government to diminish the cordiality of those relations. The hospitable reception which has been given to the Grand Duke is a proof that on our side we share the wishes of that government. The inexcusable course of the Russian minister at Washington rendered it necessary to ask his recall, and to decline to longer receive that functionary as a diplomatic representative. It was impossible with self-respect, or with a just regard to the dignity of the country, to permit Mr. Catacazy to continue to hold intercourse with this Government after his personal abuse of Government officials, and during his persistent interference, through various means, with the relations between the United States and other powers. In accordance with my wishes, this Government has been relieved of further intercourse with Mr. Catacazy,

and the management of the affairs of the imperial legation has passed into the hands of a gentleman entirely unobjectionable.

With Japan we continue to maintain intimate relations. The cabinet of the Mikado has, since the close of the last session of Congress, selected citizens of the United States to serve in offices of importance in several departments of government. I have reason to think that this selection is due to an appreciation of the disinterestedness of the policy which the United States have pursued toward Japan. It is our desire to continue to maintain this disinterested and just policy with China as well as Japan. The correspondence transmitted herewith shows that there is no disposition on the part of this Government to swerve from its established course.

Prompted by a desire to put an end to the barbarous treatment of our shipwrecked sailors on the Corean coast, I instructed our minister at Peking to endeavor to conclude a convention with Corea for securing the safety and humane treatment of such mariners.

Admiral Rodgers was instructed to accompany him, with a sufficient force to protect him in case of need.

A small surveying party sent out, on reaching the coast, was treacherously attacked at a disadvantage. Ample opportunity was given for explanation and apology for the insult. Neither came. A force was then landed. After an arduous march over a rugged and difficult country, the forts from which the outrages had been committed were reduced by a gallant assault and were destroyed. Having thus punished the criminals, and having vindicated the honor of the flag, the expedition returned, finding it impracticable, under the circumstances, to conclude the desired convention. I respectfully refer to the correspondence relating thereto, herewith submitted, and leave the subject for such action as Congress may see fit to take.

The republic of Mexico has not yet repealed the very objectionable laws establishing what is known as the "Free Zone," on the frontier of the United States. It is hoped that this may yet be done, and also that more stringent measures may be taken by that republic for restraining lawless persons on its frontiers. I hope that Mexico, by its own action, will soon relieve this Government of the difficulties experienced from these causes. Our relations with the various republics of Central and South America continue, with one exception, to be cordial and friendly.

I recommend some action by Congress regarding the overdue installments under the award of the Venezuelan claims commission of 1866. The internal dissensions of this government present no justification for the absence of effort to meet their solemn treaty obligations.

The ratification of an extradition treaty with Nicaragua has been exchanged.

It is a subject for congratulation that the great empire of Brazil has taken the initiatory step toward the abolition of slavery. Our relations

with that empire, always cordial, will naturally be made more so by this act. It is not too much to hope that the government of Brazil may hereafter find it for its interest as well as intrinsically right to advance toward entire emancipation more rapidly than the present act contemplates.

The true prosperity and greatness of a nation is to be found in the elevation and education of its laborers.

It is a subject for regret that the reforms in this direction, which were voluntarily promised by the statesmen of Spain, have not been carried out in its West India colonies. The laws and regulations for the apparent abolition of slavery in Cuba and Porto Rico leave most of the laborers in bondage, with no hope of release until their lives become a burden to their employers.

I desire to direct your attention to the fact that citizens of the United States, or persons claiming to be citizens of the United States, are large holders, in foreign lands, of this species of property, forbidden by the fundamental law of their alleged country. I recommend to Congress to provide, by stringent legislation, a suitable remedy against the holding, owning, or dealing in slaves, or being interested in slave property in foreign lands, either as owners, hirers, or mortgagers, by citizens of the United States.

It is to be regretted that the disturbed condition of the island of Cuba continues to be a source of annoyance and of anxiety. The existence of a protracted struggle in such close proximity to our own territory, without apparent prospect of an early termination, cannot be other than an object of concern to a people who, while abstaining from interference in the affairs of other powers, naturally desire to see every country in the undisturbed enjoyment of peace, liberty, and the blessings of free institutions.

Our naval commanders in Cuban waters have been instructed, in case it should become necessary, to spare no effort to protect the lives and property of *bona-fide* American citizens, and to maintain the dignity of the flag.

It is hoped that all pending questions with Spain growing out of the affairs in Cuba may be adjusted in the spirit of peace and conciliation which has hitherto guided the two powers in their treatment of such questions.

To give importance, and to add to the efficiency of our diplomatic relations with Japan and China, and to further aid in retaining the good opinion of those peoples, and to secure to the United States its share of the commerce destined to flow between those nations and the balance of the commercial world, I earnestly recommend that an appropriation be made to support at least four American youths in each of those countries, to serve as a part of the official family of our ministers there. Our representatives would not even then be placed upon an equality with the representatives of Great Britain and of some other

powers. As now situated, our representatives in Japan and China have to depend, for interpreters and translators, upon natives of those countries who know our language imperfectly, or procure for the occasion the services of employés in foreign business houses, or the interpreters to other foreign ministers.

I would also recommend liberal measures for the purpose of supporting the American lines of steamers now plying between San Francisco and Japan and China, and the Australian line—almost our only remaining lines of ocean steamers—and of increasing their services.

The national debt has been reduced to the extent of eighty-six million fifty-seven thousand one hundred and twenty-six dollars and eighty cents during the year, and by the negotiation of national bonds at a lower rate of interest, the interest on the public debt has been so far diminished that now the sum to be raised for the interest account is nearly seventeen million dollars less than on the 1st of March, 1869. It was highly desirable that this rapid diminution should take place, both to strengthen the credit of the country, and to convince its citizens of their entire ability to meet every dollar of liability without bankrupting them. But in view of the accomplishment of these desirable ends; of the rapid development of the resources of the country; its increasing ability to meet large demands, and the amount already paid, it is not desirable that the present resources of the country should continue to be taxed in order to continue this rapid payment. I therefore recommend a modification of both the tariff and internal tax laws. I recommend that all taxes from internal sources be abolished, except those collected from spirituous, vinous, and malt liquors, tobacco in its various forms, and from stamps.

In re-adjusting the tariff, I suggest that a careful estimate be made of the amount of surplus revenue collected under the present laws, after providing for the current expenses of the Government, the interest account, and a sinking fund, and that this surplus be reduced in such a manner as to afford the greatest relief to the greatest number. There are many articles not produced at home, but which enter largely into general consumption through articles which are manufactured at home, such as medicines compounded, &c., &c., from which very little revenue is derived, but which enter into general use. All such articles I recommend to be placed on the "free list." Should a further reduction prove advisable, I would then recommend that it be made upon those articles which can best bear it without disturbing home-production, or reducing the wages of American labor.

I have not entered into figures, because to do so would be to repeat what will be laid before you in the report of the Secretary of the Treasury. The present laws for collecting revenue pay collectors of customs small salaries, but provide for moieties (shares in all seizures) which, at principal ports of entry particularly, raise the compensation of those officials to a large sum. It has always seemed to me as if this system

must, at times, work perniciously. It holds out an inducement to dishonest men, should such get possession of those offices, to be lax in their scrutiny of goods entered to enable them finally to make large seizures. Your attention is respectfully invited to this subject.

Continued fluctuations in the value of gold, as compared with the national currency, has a most damaging effect upon the increase and development of the country in keeping up prices of all articles necessary in every-day life. It fosters a spirit of gambling prejudicial alike to national morals and the national finances. If the question can be met, as to how to give a fixed value to our currency, that value constantly and uniformly approaching par with specie, a very desirable object will be gained.

For the operations of the Army in the past year, the expense of maintaining it, the estimate for the ensuing year, and for continuing sea-coast and other improvements conducted under the supervision of the War Department, I refer you to the accompanying report of the Secretary of War.

I call your attention to the provisions of the act of Congress approved March 3, 1869, which discontinues promotions in the staff corps of the Army until provided for by law. I recommend that the number of officers in each grade in the staff corps be fixed, and that whenever the number in any one grade falls below the number so fixed, that the vacancy may be filled by promotion from the grade below. I also recommend that, when the office of chief of a corps becomes vacant, the place may be filled by selection from the corps in which the vacancy exists.

The report of the Secretary of the Navy shows an improvement in the number and efficiency of the naval force, without material increase in the expense of supporting it. This is due to the policy which has been adopted, and is being extended, as fast as our material will admit, of using smaller vessels as cruisers on the several stations. By this means we have been enabled to occupy at once a larger extent of cruising-ground, to visit more frequently the ports where the presence of our flag is desirable, and generally to discharge more efficiently the appropriate duties of the Navy in time of peace, without exceeding the number of men or the expenditure authorized by law.

During the past year the Navy has, in addition to its regular service, supplied the men and officers for the vessels of the Coast Survey, and has completed the surveys authorized by Congress of the Isthmus of Darien and Tehuantepec, and under like authority has sent out an expedition completely furnished and equipped to explore the unknown ocean of the north.

The suggestions of the report as to the necessity for increasing and improving the *materiel* of the Navy, and the plan recommended for reducing the *personnel* of the service to a peace standard, by the gradual abolition of certain grades of officers, the reduction of others,

and the employment of some in the service of the commercial marine, are well considered and deserve the thoughtful attention of Congress.

I also recommend that all promotions in the Navy above the rank of captain be by selection instead of by seniority. This course will secure in the higher grades greater efficiency and hold out an incentive to young officers to improve themselves in the knowledge of their profession.

The present cost of maintaining the Navy, its cost compared with that of the preceding year, and the estimates for the ensuing year, are contained in the accompanying report of the Secretary of the Navy.

The enlarged receipts of the Post-Office Department, as shown by the accompanying report of the Postmaster General, exhibits a gratifying increase in that branch of the public service. It is the index of the growth of education and of the prosperity of the people, two elements highly conducive to the vigor and stability of republics. With a vast territory like ours, much of it sparsely populated, but all requiring the services of the mail, it is not at present to be expected that this Department can be made self-sustaining. But a gradual approach to this end, from year to year, is confidently relied on, and the day is not far distant when the Post-Office Department of the Government will prove a much greater blessing to the whole people than it is now.

The suggestions of the Postmaster General for improvements in the Department presided over by him are earnestly recommended to your special attention. Especially do I recommend favorable consideration of the plan for uniting the telegraphic system of the United States with the postal system. It is believed that by such a course the cost of telegraphing could be much reduced, and the service as well, if not better, rendered. It would secure the further advantage of extending the telegraph through portions of the country where private enterprise will not construct it. Commerce, trade, and, above all, the efforts to bring a people widely separated into a community of interest, are always benefited by a rapid intercommunication. Education, the ground-work of republican institutions, is encouraged by increasing the facilities to gather speedy news from all parts of the country. The desire to reap the benefit of such improvements will stimulate education. I refer you to the report of the Postmaster-General for full details of the operations of last year, and for comparative statements of results with former years.

There has been imposed upon the Executive branch of the Government the execution of the act of Congress approved April 20, 1871, and commonly known as the Ku-Klux law, in a portion of the State of South Carolina. The necessity of the course pursued will be demonstrated by the report of the Committee to Investigate Southern Outrages. Under the provisions of the above act, I issued a proclamation calling the attention of the people of the United States to the same, and declaring my reluctance to exercise any of the extraordinary powers thereby con-

ferred upon me, except in case of imperative necessity, but making known my purpose to exercise such powers whenever it should become necessary to do so for the purpose of securing to all citizens of the United States the peaceful enjoyment of the rights guaranteed to them by the Constitution and the laws.

After the passage of this law, information was received from time to time that combinations of the character referred to in this law existed, and were powerful in many parts of the Southern States, particularly in certain counties in the State of South Carolina.

Careful investigation was made, and it was ascertained that, in nine counties of that State, such combinations were active and powerful, embracing a sufficient portion of the citizens to control the local authority, and having, among other things, the object of depriving the emancipated class of the substantial benefits of freedom, and of preventing the free political action of those citizens who did not sympathize with their own views. Among their operations were frequent scourgings and occasional assassinations, generally perpetrated at night by disguised persons, the victims in almost all cases being citizens of different political sentiments from their own, or freed persons who had shown a disposition to claim equal rights with other citizens. Thousands of inoffensive and well-disposed citizens were the sufferers by this lawless violence.

Thereupon, on the 12th of October, 1871, a proclamation was issued, in terms of the law, calling upon the members of those combinations to disperse within five days, and to deliver to the marshal or military officers of the United States all arms, ammunition, uniforms, disguises, and other means and implements used by them for carrying out their unlawful purposes.

This warning not having been heeded, on the 17th of October another proclamation was issued, suspending the privileges of the writ of *habeas corpus* in nine counties in that State.

Direction was given that, within the counties so designated, persons supposed, upon creditable information, to be members of such unlawful combinations should be arrested by the military forces of the United States, and delivered to the marshal, to be dealt with according to law. In two of said counties, York and Spartanburgh, many arrests have been made. At the last account, the number of persons thus arrested was one hundred and sixty-eight. Several hundred, whose criminality was ascertained to be of an inferior degree, were released for the present. These have generally made confessions of their guilt.

Great caution has been exercised in making these arrests, and, notwithstanding the large number, it is believed that no innocent person is now in custody. The prisoners will be held for regular trial in the judicial tribunals of the United States.

As soon as it appeared that the authorities of the United States were about to take vigorous measures to enforce the law, many persons absconded, and there is good ground for supposing that all of such per-

sons have violated the law. A full report of what has been done under this law will be submitted to Congress by the Attorney General.

In Utah there still remains a remnant of barbarism, repugnant to civilization, to decency, and to the laws of the United States. Territorial officers, however, have been found who are willing to perform their duty in a spirit of equity and with a due sense of the necessity of sustaining the majesty of the law. Neither polygamy nor any other violation of existing statutes will be permitted within the territory of the United States. It is not with the religion of the self-styled Saints that we are now dealing, but with their practices. They will be protected in the worship of God according to the dictates of their consciences, but they will not be permitted to violate the laws under the cloak of religion.

It may be advisable for Congress to consider what, in the execution of the laws against polygamy, is to be the status of plural wives and their offspring. The propriety of Congress passing an enabling act authorizing the territorial legislature of Utah to legitimize all children born prior to a time fixed in the act might be justified by its humanity to these innocent children. This is a suggestion only, and not a recommendation.

The policy pursued toward the Indians has resulted favorably, so far as can be judged from the limited time during which it has been in operation. Through the exertions of the various societies of Christians to whom has been intrusted the execution of the policy, and the board of commissioners authorized by the law of April 10, 1869, many tribes of Indians have been induced to settle upon reservations, to cultivate the soil, to perform productive labor of various kinds, and to partially accept civilization. They are being cared for in such a way, it is hoped, as to induce those still pursuing their old habits of life to embrace the only opportunity which is left them to avoid extermination.

I recommend liberal appropriations to carry out the Indian peace policy, not only because it is humane, Christian-like, and economical, but because it is right.

I recommend to your favorable consideration also the policy of granting a territorial government to the Indians in the Indian Territory west of Arkansas and Missouri and south of Kansas. In doing so, every right guaranteed to the Indian by treaty should be secured. Such a course might in time be the means of collecting most of the Indians now between the Missouri and the Pacific and south of the British possessions into one Territory or one State. The Secretary of the Interior has treated upon this subject at length, and I commend to you his suggestions.

I renew my recommendation that the public lands be regarded as a heritage to our children, to be disposed of only as required for occupation and to actual settlers. Those already granted have been in great part disposed of in such a way as to secure access to the balance by the

hardy settler who may wish to avail himself of them, but caution should be exercised even in attaining so desirable an object.

Educational interest may well be served by the grant of the proceeds of the sale of public lands to settlers. I do not wish to be understood as recommending, in the least degree, a curtailment of what is being done by the General Government for the encouragement of education.

The report of the Secretary of the Interior, submitted with this, will give you all the information collected and prepared for publication in regard to the census taken during the year 1870; the operations of the Bureau of Education for the year; the Patent Office; the Pension Office; the Land Office; and the Indian Bureau.

The report of the Commissioner of Agriculture gives the operations of his Department for the year. As agriculture is the ground-work of our prosperity, too much importance cannot be attached to the labors of this Department. It is in the hands of an able head, with able assistants, all zealously devoted to introduce into the agricultural productions of the nation all useful products adapted to any of the various climates and soils of our vast territory, and to giving all useful information as to the method of cultivation, the plants, cereals, and other products adapted to particular localities. Quietly, but surely, the Agricultural Bureau is working a great national good, and if liberally supported, the more widely its influence will be extended and the less dependent we shall be upon the products of foreign countries.

The subject of compensation to the heads of Bureaus and officials holding positions of responsibility, and requiring ability and character to fill properly, is one to which your attention is invited. But few of the officials receive a compensation equal to the respectable support of a family, while their duties are such as to involve millions of interest. In private life services demand compensation equal to the services rendered. A wise economy would dictate the same rule in the Government service.

I have not given the estimates for the support of Government for the ensuing year, nor the comparative statement between the expenditures for the year just passed and the one just preceding, because all these figures are contained in the accompanying reports, or in those presented directly to Congress. These estimates have my approval.

More than six years having elapsed since the last hostile gun was fired between the armies then arrayed against each other—one for the perpetuation, the other for the destruction of the Union—it may well be considered whether it is not now time that the disabilities imposed by the fourteenth amendment should be removed. That amendment does not exclude the ballot, but only imposes the disability to hold offices upon certain classes. When the purity of the ballot is secure, majorities are sure to elect officers reflecting the views of the majority. I do not see the advantage or propriety of excluding men from office merely because they were, before the rebellion, of standing and character sufficient to be elected to positions requiring them to take oaths to support the Con-

stitution, and admitting to eligibility those entertaining precisely the same views, but of less standing in their communities. It may be said that the former violated an oath, while the latter did not. The latter did not have it in their power to do so. If they had taken this oath it cannot be doubted they would have broken it as did the former class. If there are any great criminals, distinguished above all others for the part they took in opposition to the Government, they might, in the judgment of Congress, be excluded from such an amnesty.

This subject is submitted for your careful consideration.

The condition of the Southern States is, unhappily, not such as all true patriotic citizens would like to see. Social ostracism for opinion's sake, personal violence or threats toward persons entertaining political views opposed to those entertained by the majority of the old citizens, prevents immigration and the flow of much-needed capital into the States lately in rebellion. It will be a happy condition of the country when the old citizens of these States will take an interest in public affairs, promulgate ideas honestly entertained, vote for men representing their views, and tolerate the same freedom of expression and ballot in those entertaining different political convictions.

Under the provisions of the act of Congress approved February 21, 1871, a territorial government was organized in the District of Columbia. Its results have thus far fully realized the expectations of its advocates. Under the direction of the territorial officers, a system of improvements has been inaugurated, by means of which Washington is rapidly becoming a city worthy of the nation's capital. The citizens of the District having voluntarily taxed themselves to a large amount for the purpose of contributing to the adornment of the seat of Government, I recommend liberal appropriations on the part of Congress in order that the Government may bear its just share of the expense of carrying out a judicious system of improvements.

By the great fire in Chicago, the most important of the Government buildings in that city were consumed. Those burned had already become inadequate to the wants of the Government in that growing city, and, looking to the near future, were totally inadequate. I recommend therefore that an appropriation be made immediately to purchase the remainder of the square on which the burned buildings stood, provided it can be purchased at a fair valuation, or provided that the legislature of Illinois will pass a law authorizing its condemnation for Government purposes; and also an appropriation of as much money as can properly be expended toward the erection of new buildings during this fiscal year.

The number of immigrants ignorant of our laws, habits, &c., coming into our country annually has become so great, and the impositions practiced upon them so numerous and flagrant, that I suggest congressional action for their protection. It seems to me a fair subject of legislation by Congress. I cannot now state as fully as I desire the nature of the complaints made by immigrants of the treatment they

receive, but will endeavor to do so during the session of Congress, particularly if the subject should receive your attention.

It has been the aim of the Administration to enforce honesty and efficiency in all public offices. Every public servant who has violated the trust placed in him has been proceeded against with all the rigor of the law. If bad men have secured places it has been the fault of the system established by law and custom for making appointments, or the fault of those who recommend for Government positions persons not sufficiently well known to them personally, or who give letters indorsing the characters of office-seekers without a proper sense of the grave responsibility which such a course devolves upon them. A civil service reform which can correct this abuse is much desired. In mercantile pursuit, the business-man who gives a letter of recommendation to a friend, to enable him to obtain credit from a stranger, is regarded as morally responsible for the integrity of his friend, and his ability to meet his obligations. A reformatory law which would enforce this principle against all indorsers of persons for public place would insure great caution in making recommendations. A salutary lesson has been taught the careless and the dishonest public servant in the great number of prosecutions and convictions of the last two years.

It is gratifying to notice the favorable change which is taking place throughout the country in bringing to punishment those who have proven recreant to the trusts confided to them, and in elevating to public office none but those who possess the confidence of the honest and the virtuous, who, it will always be found, comprise the majority of the community in which they live.

In my message to Congress one year ago, I urgently recommended a reform in the civil service of the country. In conformity with that recommendation, Congress, in the ninth section of "An act making appropriations for sundry civil expenses of the Government, and for other purposes," approved March 3, 1871, gave the necessary authority to the Executive to inaugurate a civil service reform, and placed upon him the responsibility of doing so. Under the authority of said act I convened a board of gentlemen, eminently qualified for the work, to devise rules and regulations to effect the needed reform. Their labors are not yet complete, but it is believed that they will succeed in devising a plan that can be adopted to the great relief of the Executive, the heads of Departments, and members of Congress, and which will redound to the true interest of the public service. At all events, the experiment shall have a fair trial.

I have thus hastily summed up the operations of the Government during the last year, and made such suggestions as occur to me to be proper for your consideration. I submit them with a confidence that your combined action will be wise, statesmanlike, and in the best interests of the whole country.

U. S. GRANT.

EXECUTIVE MANSION, *December 4, 1871.*

FOREIGN RELATIONS.

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C I R C U L A R S .

Foreign letters.

DEPARTMENT OF STATE,
Washington, December 12, 1870.

The frequent requests to the Department of State to transmit private letters through Government dispatch-bags render it necessary to give notice that no private, unofficial letters will be transmitted through such bags, except those to or from persons actually in the diplomatic or consular service of the United States, or to or from members of their families.

All other unofficial letters received at the Department, from or for any foreign country, will be sent to the General Post-Office.

HAMILTON FISH,
Secretary of State.

Circular No. 6.

DEPARTMENT OF STATE,
Washington, March 13, 1871.

To the several diplomatic and consular officers and dispatch agents of the United States :

The following matter, only, may be hereafter transmitted in the Government pouches to the United States :

1st. Official correspondence, and all other matter addressed to the President or Vice-President of the United States, or to either of the Executive Departments of this Government, or the heads thereof, or to the Speaker of the House of Representatives.

2d. Letters, newspapers, and printed matter intended for either of the Assistant Secretaries, the Assistant Postmasters General, or the Assistant Attorneys General, or for any of the clerks of this Department.

3d. The private correspondence of the officials of the United States abroad, and of the members of their families, addressed as provided in paragraph 346 of the Consular Regulations.

4th. Matter transmitted at the request of any foreign government to its representative in the United States.

Except as above, no matter will be sent in the pouches.

From the United States nothing will be sent in the pouches except through this Department.

HAMILTON FISH,
Secretary of State.

Circular No. 8.

DEPARTMENT OF STATE,

Washington, May 1, 1871.

SIR: Abuses which have heretofore occurred in granting protection from the local authorities in eastern countries, and especially in the Turkish dominions, to persons who, in the opinion of this Department, had no claim thereto, render it advisable that the legations and consulates in that quarter should, once in six months, report the number, names, and occupations of the persons to whom, during the six months preceding, such protection may have been given, or by whom it may have been claimed. You will so report accordingly, immediately upon the receipt of this circular, in regard to the _____ at _____. Such report will in future be expected to be made at the beginning of every January and July.

It is believed that sound policy dictates the utmost scrutiny and caution in extending the protection of this Government to any persons abroad who may not be citizens of the United States. Should that policy be adopted and scrupulously adhered to, those to whom protection may really be due may expect it to be efficient.

I am, sir, your obedient servant,

HAMILTON FISH,

Secretary of State.

To _____,
_____.

Circular.

DEPARTMENT OF STATE,

Washington, May 2, 1871.

The United States have concluded treaties regulating the rights persons who have emigrated from the dominions of one of the contracting parties, and have been naturalized in those of the other party, with the following powers: Austria and Hungary, Baden, Bavaria, Belgium, Great Britain, Hesse Darmstadt, Mexico, the North German Union, and Wurtemberg.

These treaties provide, in general, that subjects of these powers, respectively, who have become naturalized citizens of the United States, and who *have resided, uninterruptedly, within the United States for five years*, shall be held to be citizens of the United States, and shall be treated as such.

The treaties with Belgium and Great Britain do not require a residence of five years within the United States, but recognize citizenship where under our laws it has been acquired after a shorter period.

The exceptions to the requisition of five years' residence, under our laws, are: 1. That of soldiers who have been honorably discharged from the armies of the United States. Such persons, being of the age of twenty-one years and upward, may be naturalized without any previous declaration of intention to become citizens, and without being required to prove more than one year's residence in the United States previous to their application. (See section 21 of act of Congress of July 17, 1862, 12 Statutes at Large, page 597.) There is an erroneous impression prevalent, to some extent, that the mere facts of service and discharge operate as a naturalization, whereas they are only part of the evidence on which naturalization may be granted. 2. The children of persons duly naturalized, being under twenty-one years of age at the time of

their parents being so naturalized, are, *if dwelling within the United States*, considered as citizens. (Act of April 14, 1802.) 3. Persons born out of the United States, whose fathers, at the time of such birth, were citizens of the United States; and, 4. Women married to citizens of the United States. (Act of February 10, 1855.) It has been decided (7 Wallace, 496) that the state of marriage confers citizenship on the wife, whether the citizenship of the husband existed at the time of the marriage or was acquired subsequently. With the exception of Belgium and Great Britain, both naturalization and five years' continuous residence are required by the treaties as necessary conditions to the character and privileges of American citizenship.

In the explanatory protocols annexed to some of the treaties, it is expressly stated that the words "*resided uninterruptedly*, are to be understood, not of a continued bodily presence, but in the legal sense; and therefore a transient absence, a journey or the like, by no means interrupts the period of five years" contemplated by such treaties. It is presumed that this construction will be accepted by the other powers which have not in terms announced their assent thereto. On the other hand, where a minor of Prussian birth had enlisted in our Army, been honorably discharged, and then returned to Germany, resided in the house of his father (being still a minor) nearly a year, having during that time accepted a German passport for the purpose of enabling him to go to another province to perfect himself in his trade, it was recently (January 21, 1871) held by the Attorney General that this was such an interruption of his residence as to deprive him of protection from military service, notwithstanding his naturalization in the United States. Each case must be judged upon its own circumstances.

It is material to observe that according to the opinion of the Attorney General in the case above mentioned, the recitations contained in the record of naturalization, as to residence, &c., are not conclusive upon either this or a foreign government; but that when such recitals are shown, by clear evidence, to be erroneous, they are to be disregarded.

The treaties referred to generally contain a provision that "the declaration of an intention to become a citizen of one or the other country, has not, for either party, the effect of naturalization." Independently of the treaties, and long before them, the issuing a passport to a person who has not *completed* his naturalization was and remains prohibited under penalties by act of Congress.

The treaties in general provide that if a subject of the respective powers who has been naturalized in the United States renews his residence in the country of his original allegiance, without the intent to return, he shall be held to have renounced his naturalization in the United States. The intention not to return may be held to exist when the person naturalized in the one country resides in the other country more than two years, but this presumption may be rebutted by evidence to the contrary.

The treaties in general further provide that "a naturalized citizen of the one party on return to the territory of the other party remains liable to trial and punishment for an action punishable by the laws of his original country, and committed before his emigration—saving always the limitation established by the laws of his original country;" some of them, for example, Baden, Bavaria, and Wurtemberg, add "or other remission of liability to punishment." This Department cannot undertake to give information in respect to the statutes of limitation on prosecutions for criminal or military offenses, or other remissions of punishment allowed by the domestic jurisprudence of foreign powers,

or any of them. Citizens interested in the question must seek such information elsewhere.

The ministers of justice and of the interior, of the North German Union, announced by circular that the punishable action committed by the unauthorized emigration of a subject shall not be made the ground for a penal prosecution upon the return of such person to his former country, after an absence of not less than five years and his naturalization in the United States. A similar intention is declared in the explanatory protocol accompanying the treaty with Bavaria, and it may reasonably be expected that the other powers with whom we have treaties on this subject will construe them with the same liberality.

In respect to prosecutions for the failure to discharge military obligations—which are the principal cause of apprehension to naturalized citizens visiting their native country—the following provisions, in substance, with but slight verbal variations not regarded as material, are contained in the treaties with Austria and Hungary, Baden, Hesse Darmstadt, and Wurtemberg, or in the explanatory protocols accompanying the same, viz :

A naturalized citizen of the United States is liable to trial and punishment for the non-fulfillment of military duty according to the laws of those countries, respectively—

"1. If he has emigrated after he, on the occasion of the draft from those owing military duty, has been enrolled as a recruit for service in the standing army.

"2. If he has emigrated after he stood in service under the flag or had a leave of absence only for a limited time.

"3. If, having a leave of absence for an unlimited time, or belonging to the reserve or to the militia, he has emigrated after having received a call into service, or after a public proclamation requiring his appearance, or after war has broken out."

With these exceptions the powers last enumerated have in effect pledged themselves that their former subjects, naturalized in the United States, will not, on visiting their original country, be held, subsequently, to military service nor remain liable to trial and punishment for non-fulfillment of military duty.

While this Government can give no guaranty on the subject, it may reasonably be expected that the other powers with whom we have treaties, will be desirous of conforming, so far as practicable to the rule last stated.

It is to be observed, however, that the superserviceable zeal or ignorance of local officials, civil and military, may often tempt them to cause arrests, and institute prosecutions which they suppose to be justified, if not required, by the laws of their country. Such proceedings may necessitate an appeal to the judicial tribunals, a necessity which is not the ground for national complaint or reclamation. They may even require the invocation of the dispensing or pardoning power of the supreme government. In either case our citizens are exposed to the hazard of arrest and military confinement, delay, and the expense of legal proceedings.

In respect to those countries with which we have no treaty stipulation on citizenship and naturalization, this Department must speak with much reserve. It cannot undertake to give an interpretation to foreign laws, even if the entire text of them was in its possession. The construction of those laws belongs to the judicial tribunals of the countries in which they are promulgated. It must be understood, therefore, that what follows is collected from authors of good repute and other unofficial

sources, and is given only as probably authentic, but without affirming its accuracy. With this qualification it may be stated:

FRANCE.—It seems to be the better opinion of French jurists that a French subject can at any time, by his own act, and without express permission of his government, transfer his allegiance to any country which consents to naturalize him. By so doing, or by acceptance, unauthorized by the head of the state, of public functions conferred by a foreign government, or taking military service under a foreign government without such authorization, he, as the Code Napoleon terms it, “loses the quality of a Frenchman.” 2d. No foreigner can serve in the armies of France; a Frenchman, therefore, naturalized in the United States cannot be held to the performance of military service in France. 3d. After three years from the date of the naturalization of a Frenchman in the United States, any liability to military service is considered removed by lapse of time. If, therefore, a Frenchman is conscripted, and fails to respond to the requirement, he will not be held to accountability for such dereliction of duty (*insoumission*) after the lapse of three years from his naturalization. 4th. To obtain exemption, however, the late imperial government required, (see dispatch of Mr. Dix to Mr. Fish, No. 344, May 14, 1869.) *a.* That a Frenchman naturalized abroad, if charged with a failure to perform military service, should go before a civil tribunal and show by properly-authenticated papers that his naturalization was in conformity with the laws of the country in which it was effected. If the tribunal is satisfied on this point it declares him to have lost “the quality of a Frenchman.” *b.* This decision of the court must be presented to the council of war of the department, and if three years have elapsed subsequently to naturalization, the accused is to be discharged; otherwise he may be punished by imprisonment, said rarely to exceed thirty days. In any event he may be subjected to the costs of the proceedings. These rules are not known to have been changed since 1869.

Italy, Spain, Norway, and Greece follow substantially the Code Napoleon, and treat nationality as lost by naturalization in a foreign country, or by entering without royal license into its civil or military service.

In the ultra-marine provinces of Spain no one considered a foreigner by its law is subject to military service, and foreigners, except the domiciled who have their own houses, are exempt from personal service in the municipal guards, but the latter are subject to the charges for furnishing lodging and transportation. (Decree of the Constituent Cortes, proclaimed July 4, 1870.)

In Italy, by the army law of 1855, naturalization abroad, without the King's permission, does not exempt from conscription. The son of an alien who was born within the kingdom, and established his domicile uninterruptedly for ten years, is considered a citizen, and must inscribe his name on the levy list of the commune in which he resides; but residence for commercial purposes is not sufficient to constitute a domicile. The sons of a citizen, naturalized in a foreign country, born in such country before the naturalization of the father, must be inscribed on the levy list of their last place of residence in Italy.

A Russian subject cannot emigrate nor become naturalized in a foreign country without the permission of the Emperor. If he does so, he commits an offense for which he may be banished forever from the Russian dominions. If this penalty is applied he may thus of course escape conscription. If not, there is no guaranty against his being compelled to stand the chances of the lot for the annual supply of recruits.

A subject of the Ottoman Empire cannot divest himself of that char-

acter without the authority of the imperial government. If, without such authority, he accepts a foreign naturalization, it is treated as of no effect, and he is still considered and dealt with as in all respects an Ottoman subject. Every person who obtains naturalization abroad, or enters a foreign military service, without the permission of the Emperor, may be declared to have forfeited his character of Ottoman subject, and in that case is altogether interdicted from returning to the Ottoman Empire. The children, even minors, of an Ottoman subject naturalized abroad do not follow the condition of the father, but remain Ottoman subjects. (Law of January 19, 1869; see dispatch of Mr. Morris, No. 299, February 10, 1869.)

A naturalized citizen desiring a passport may address State Department, Passport Bureau, Washington, D. C., transmitting his certificate of naturalization, (it will be returned with the passport,) and he must state, under oath, that he is the identical person described in the certificate presented.

The application should be accompanied by a description of the person, stating the following particulars, viz:

Age, — years; stature, — feet — inches, (English measure;) forehead, —; eyes, —; nose, —; mouth, —; chin, —; hair, —; complexion, —; face, —.

When husband, wife, and *minor* children expect to travel together, a single passport for the whole will suffice. *For any other person in the party a separate passport will be required.* Passports are now issued without charge.

The oath of allegiance to the United States, as prescribed by law, will be required in all cases. It may be taken before a notary public under his signature and official seal. When there is no notary in the place, the affidavit may be made before a justice of the peace, or other officer authorized to administer oaths.

HAMILTON FISH.

Circular No. 11.

DEPARTMENT OF STATE,
Washington, June 16, 1871.

GENTLEMEN: His Excellency, the President of the Swiss Confederation, has expressed to this Department, through the minister of the United States accredited to that government, a wish that you would severally extend your protection to Swiss citizens who may desire it and who may be sojourning at places where there are no diplomatic or consular representatives of that republic.

This Government has, on more than one occasion, upon the request of friendly powers, given to its diplomatic and consular representatives permission to take upon themselves, with the consent of the government within whose jurisdiction they reside, the function of representing those powers at places where the latter had no such officers. It has understood this to amount simply to the granting of the services of our agents, with their own consent, to meet what has ordinarily been a fortuitous and temporary exigency of the friendly government. When this function is accepted, the diplomatic or consular officer becomes the agent of the foreign government as to the duties he may perform for its citizens or subjects; he becomes responsible to it for his discharge of those

duties; and that government is alone responsible for his acts in relation thereto.

With this understanding of the obligations, you are authorized, with the consent of the authorities of the country or place where you officially reside, to extend such protection to Swiss citizens whenever it may be required or needed. It is expected, however, that, in complying with this authority, you will exercise due discretion, and will be careful not to give just cause of offense in any quarter.

I am, gentlemen, your obedient servant,

HAMILTON FISH.

The DIPLOMATIC AND CONSULAR OFFICERS
of the United States.

A U S T R I A .

No. 1.

Mr. Jay to Mr. Davis.

[Extract.]

No. 346.]

UNITED STATES LEGATION,
Vienna, September 6, 1871. (Received September 26.)

SIR: *

The policy of Prussia toward Rome had been changed, he said, within the last six weeks. The change was due to Prince Bismarck. It was now decided to resist strongly the Ultramontane party, and they had accordingly secured for Bavaria, in place of Count Bray, a minister who sided with Dr. Döllinger. Of what the future of the protesting movement might be, he had not been able to form an opinion. It required great faith and earnestness to secede from an established church and form a new sect, and he was inclined to doubt whether, of such faith, the supply in these times was over-abundant. He intimated that the success of the Austrian policy of Count Hohenwart would be a misfortune, not alone in its influence on the Roman question, but in its bearings upon the Germans of Austria. On both of these questions Count Beust's position was approved by the German government. I may here remark that the importance of the pending election seems to be acknowledged alike by the German centralists, who hold sacredly to the existing constitution as involving their supremacy, although in a minority, and by the disaffected nationalities whom President Hohenwart is endeavoring to unite, with the view of amending the constitution in a constitutional way; with the view of combining an extension of provincial legislative autonomy with an increased centralization of national power in a Reichsrath where all shall be equally represented.

Hitherto the immovable resolution of the Czechs and the disaffection of the Poles have defeated all efforts at success in this direction; but Count Hohenwart has had the assistance in this cabinet of Messrs. Jirecek and Habietinek, as representatives of Bohemia, and of Grocholski, on the part of Galicia. Of seventeen provincial diets or landtags, eight have been dissolved by Count Hohenwart, the Emperor having the right

to dissolve any diet at his pleasure, and after these new diets have been chosen, the entire number will elect deputies to the new Reichsrath.

Should any landtag refuse or omit to elect deputies, the Emperor can order a direct election by the original election. The seeming skill, caution, and confidence with which Count Hohenwart has quietly developed this policy, has aroused the fears and temper of his opponents; and the supposed effects of a two-third majority able to amend the constitution upon the German supremacy in Austria, may explain the anxiety exhibited by the Baron, when the subject was alluded to. It may also explain the desire of Count de Beust, as the foreign minister, to stand aloof from such a contest, and to aspire, as he said, to at least a temporary ignorance of the interior politics of the Austrian half of the empire.

The opposition to the Count of the Czecks and clericals, to which he alluded, may perhaps dispose him to regard without displeasure the strong desire on the part of Prussia that he should not be displaced from his post. * * *

The general impression among the diplomats seems to be, that whatever may have been the propositions made to the Count de Beust, looking towards a closer alliance, the Prince Bismarck's diplomacy in this direction has not as yet been a success, whatever may be accomplished at Salzburg; and the Baron's remarks gave me the same impression, with an additional idea, that, while they had nothing to complain of as regards the Count's friendliness and courtesies, they were still in doubt, perhaps not unreasonably, of his devotion to Prussia and of what might be his foreign policy.

The relations of Austria and Russia are, as every one feels, not cordial; but then, as Count Beust cheerfully remarked some two months ago, "they are no worse than usual;" and Austria is so accustomed to external complications and internal muddles, that even if they chanced to be rather worse than usual, it would not necessarily cause a sensation. There appears, however, to be at this moment a general feverishness, a want of confidence, and an indefinite expectation of another great war, without knowing when or whence it will come. A rumor, whether true or false, that the Prince Gortschakoff was to meet Thiers in Switzerland, and another, that the Italian minister had been invited to Salzburg, have tended to increase the excitement. A belief obtains that France is burning for revenge and will seek to elude the payment of the balance of the indemnity; that Russia is arming with the greatest rapidity and on an immense scale; and I am told that the Russian people are awakening to the fact that the policy of Prince Gortschakoff in standing guard for Prussia, while France was being crushed and dismembered, was at once a crime and a blunder; that she now finds she has assisted to destroy her natural ally, and to convert into a giant her natural foe; that what she has gained in the Black Sea was gained in a manner that has impaired the moral prestige of her diplomacy, while it affords no sort of compensation; and that, in fact, Russia stands to-day towards Prussia as France stood towards the same power, when she saw, as the result of her intrigues, the defeat of Sadowa. * * *

I have, &c.,

JOHN JAY.

No. 2.

Mr. Jay to Mr. Fish.

[Extract.]

No. 349.]

UNITED STATES LEGATION,
Vienna, September 10, 1871. (Received September 27.)

SIR: In my No. 346, of September 6, * * * I quoted the remarks of a diplomat in regard to the marked change in the policy of Germany on the Romish question, which during the last few weeks had been inaugurated by the Prince Bismarck; and to the substitution, in consequence, of a new prime minister for Bavaria, of the Döllinger school, in place of the Count Bray, who has just returned to his post as the representative of Bavaria at this court. An official communication lately made by the Bavarian minister of public worship to the archbishop of Munich exhibits the cold character of this new policy against the clerical party, and throws light upon the views then expressed on the importance to Germany of a corresponding policy on the part of the Austrian ministry, and the anxiety lest the clericals should secure a predominance in the then pending elections. The Bavarian government, in this document, assume, as did the Count de Beust in his correspondence on the Roman question, both before and after the adoption of the dogma of papal infallibility, that the dogma introduced a new doctrine into the church, at variance alike with the rights of sovereign governments and with the rights of Catholics; a doctrine which, if acquiesced in, would change entirely the olden relation between Church and State, and which would inevitably compel, on the part of Austro-Hungary, the repeal of the concordat. The Bavarian government, following the example set by Austria, upholds the principle that the archbishops and bishops are subject to the laws of the State, and that they have violated these laws in the publication of the dogma. The importance attributed to this document as throwing the whole force of the government of Bavaria, with the approval of the court of Berlin, against the papal party, and in favor of that headed by Dr. Döllinger, who have assumed the title of "Old Catholics," as indicating their opposition to the new dogma, that I append a translation of its more essential passages as I find them in the "German Correspondent" of Berlin of the 6th September. There are indications that the "Old Catholics" do not propose to act simply on the defensive, but that they are thinking seriously of attempting the inauguration of a series of reforms, which, if carried out by combined efforts in Austria, Germany, Switzerland, and Belgium, would result in a new reformation, and perhaps open the way for their qualified union with the Church of England. Among the reforms proposed and accepted at a meeting at Linz, again approved at Heidelberg, and which are to be presented for final approbation at a great meeting soon to be held at Munich, are the following:

1. Each community to have the right to choose its own priests.
2. Priests to be sufficiently paid by the community.
3. Compulsory celibacy must cease.
4. The chapters must be dissolved.
5. Masses and the service of the church to be spoken and read in the common language of the province.
6. No separate payments for masses, burials, or baptisms.
7. Inequalities between the burials of rich and poor must cease.
8. Auricular confession must cease.

9. Pilgrimages, processions, and begging missions must cease.
10. The worship of pictures, statues, and images must cease.
11. The relic swindle (religmin schwindel) must be discontinued and be proceeded against by the State.

Should this programme be accomplished, by the assistance of the Prince Bismarck, it would go far to establish the parallel suggested by the German minister between that diplomat and Martin Luther. The result of the Austrian elections is announced in favor of the Hohenwart ministry, securing for that minister the necessary two-thirds in the new Reichsrath to accomplish the amendments of the constitution. This result has been obtained by an alliance between the clerical party and the Czechs, promoted, as it is freely charged by the German press, by the active influence of the government, through its officials and bureaux; and the dissatisfaction of the Austro-Germans is intense. It seems to me not improbable, that the completeness of Count Hohenwart's success may naturally incline him to a policy rather more conciliatory than has been expected, and that the last imperial conference at Salzburg may not be without its influence in deciding his course. To that conference the minister president was invited, as was also the Count Andrassy, neither of them having attended at Gastein.

* * * * *

One thing would seem quite clear, and that is, that the Prussian Emperor and his suite have returned to Berlin, fully persuaded that the Austrian court are prepared to forget that there ever was a battle of Sadowa, or a treaty of Prague, with secret conventions, making it a dead letter. The general impression is, that Russia has looked with jealousy upon the two conferences. The Russian minister, Mr. Novikoff, paid me a visit on the 7th instant, to thank me for a newspaper-slip I had sent him, announcing the preparations in New York for the reception of the Prince Alexis. He had returned to Vienna only the night before, after an absence of some weeks, and asked me whether there was much excitement in Vienna about the conferences. I said that there seemed to be much less anxiety on the subject than I had found on my return to Vienna a week before, and that the impression was gaining ground that, on the part of Austria, it was a matter of courtesy, and that Beust had not entered into any agreement. He said, not in writing.

* * * * *

I have, &c.,

JOHN JAY.

[Translation.]

Documents from the Minister of Worship in Bavaria against the dogma of infallibility.

BERLIN, September 6, 1871.

The intentions of the new Bavarian government, in their dealings with the partisans of the dogma of papal infallibility, are succinctly and perspicuously explained in the official communication lately made by the Bavarian minister of public worship to the archbishop of Munich. This document opens with some introductory observations, showing the complete unanimity which reigns among the different members of the government as to the demeanor imposed on the state by the most recent proceedings in the Catholic Church; after which it proceeds to reply to the complaints addressed by the archbishop to the King of Bavaria. The prelate had maintained that the design of the parties who opposed the resolutions of the Vatican council on 18th July, 1870, was solely to excite public opinion against the Church and her exercise of the sacred office of instructress, thus provoking a general apostasy, to be followed in due time by a persecution of the faithful; and that such assaults on the rights of the church would at the same time endanger social order in the country and the safety of the state. To these declarations of the archbishop the official communication in question makes the following reply:

"Though the Bavarian government fully appreciates the value of perfect harmony between the state and the church, and lays the greatest stress on the maintenance of friendly relations between them, its paramount duty nevertheless is to safeguard the rights of the state. These rights would be undoubtedly infringed were the resolutions of 18th July, 1870, to be published, in disregard of the constitutional provisions touching the *placetum regium*. Though the archbishop, in his pastoral of 14th April, energetically insists on the innocuousness of the Vatican resolutions, it is the conviction of the government that they cannot be treated with indifference, and that the creed of the Catholic Church is essentially altered by the promulgation of the dogma of infallibility. It is, indeed, alleged by the episcopate that the conciliar decrees have only elevated into a dogma what had been always believed in the Catholic Church, but against this allegation the voices of many eminent Catholics have been raised. It admits of no doubt that the important modification in the teachings of the church, which the acceptance of the new doctrine implies, totally changes the relations of the church to the state; and the question which now awaits solution is to know what the attitude of the government to the new dogma shall be. In normal circumstances the State sedulously refrains from all interference in matters of faith, but in the case before us it is incumbent on the government to come to a decision. With the mere declaration of the bishops (some of whom have recanted their previous opinions) that papal infallibility was always taught and believed in the church, that the truth of the dogma was not called in question in Rome, but merely the opportuneness of the definition, and that the infallibility of the Pope implies no danger to the State, the government cannot rest satisfied; it must not and dare not subordinate the political administration to the judgment of the church, especially as it has to protect the interests of its other subjects who hold a different faith. After a conscientious examination of the copious materials at its disposal, the government is convinced that those judge rightly who contend that a great innovation has been introduced into the doctrine of the Catholic Church, and that the state must take its measures accordingly. To do this the government has an incontestable right, since the innovation is of such a character as not only to affect the internal relations of the Catholic Church and alter its position to the State, but even to menace the fundamental principles of the Bavarian constitution, and the civil rights of non-Catholic citizens. It may be objected that the same danger formerly existed when the infallibility of the church was exercised in œcumenical councils, in conjunction with the Pope; but it was really a very different case. As infallibility was considered an attribute belonging to the collective church alone, and having for its exponent the more or less unanimous opinion of the prelates assembled for free deliberation and discussion in an œcumenical council, there was much less danger of its perversion and abuse, than when it is independently and exclusively wielded by the head of the church. It may, of course, be maintained that the Popes will restrict themselves to the domain of faith and abstain from encroaching on the sphere of the state; but this we have no right to assume. The dogma of infallibility directly threatens the concordat existing by law, and with it the constitution of the state. Hence, it is the duty of the government to obviate the mischievous consequences of this ecclesiastical innovation, and the *placetum regium* places the legal means in its hands. The bishops have already transgressed the laws of the country, by disregarding the special provisions of the constitution, when the *placetum* was expressly refused them. But the direct tendency of such an open manifestation of contempt for the Bavarian laws is to diminish their authority in the eyes of the people; and the declaration of the archbishops and bishops on this point cannot weaken or alter this fact. They arrogate to themselves a sort of sovereign position—the position of an equal and independent power; they assume the character of a contracting party in a state treaty, and place themselves on a footing which the state can never concede to them. As to the pretense that the *placetum regium* is required only for ecclesiastical ordinances which concern the affairs of the state, but not for such as treat of mere matters of belief, the constitution provides that all laws and ordinances emanating from the ecclesiastical authorities, whether they regard matters of faith or matters of discipline, shall in no case be promulgated till the royal authorization has been obtained. The document terminates with the following words:

"The menace against the fundamental rights of the Bavarian state, which is implied in the dogma of the personal infallibility of the head of the church, and the violation of the constitution involved in the disregard of the *placetum regium*, force the Government to resort to measures which it would willingly have avoided. It will therefore refuse its aid and co-operation in the promulgation of the new dogma, and in the execution of injunctions issued by the spiritual authorities with regard to its recognition and establishment. The Government will firmly abide by the principle that the steps which the ecclesiastical authorities may decide on taking against those members of the Catholic Church who reject the new dogma will affect in no degree the civil and political rights of the parties concerned. Should it be deemed necessary, further measures will be adopted by the state to protect the independence of the civil jurisdiction from ecclesiastical coercion."

No. 3.

Mr. Jay to Mr. Fish.

No. 353.]

UNITED STATES LEGATION,
Vienna, September 18, 1871. (Received October 4.)

SIR: I have already advised you of the result of the recent elections in favor of the policy of the Count Hohenwart, looking to an extension of the rights of the provinces, and such a revision of the cases of representation as would increase the electoral power of the various nationalities, and diminish, proportionally, that of the Austro-Germans. It was announced that an analysis of the votes in the new Diets showed that the new Reichsrath would be composed as follows, those marked "federalists" belonging to the ministerial party, in favor of amending the constitution, and those designated as "constitutionalists" being chiefly, if not altogether, Germans, in favor of retaining it as it is.

<i>Provinces.</i>	<i>Federalists.</i>	<i>Constitutionals.</i>
Bohemia	40	14
Gallicia	38	..
Moravia	19	4
Lower Austria .....	..	14
Styria	2	11
Tyrol	8	..
Upper Austria	8	2
Camrola	6	..
Silesia	1	5
Dalmatia	5	..
Corinthia .....	..	5
Bukowine	4	1
Salzburg	1	2
Istria	2	..
Gorice Groiscka	3	..
Trieste	2	..
	139	62
	==	==

An amendment of the constitution, requiring a vote of two-thirds, or 134, this estimate gave the government five votes more than was requisite.

The dissatisfaction, forcibly expressed by the Austro-German press, had rather prepared the public to be but slightly surprised at learning, upon the assembling of the new Diets at Brünn, Linz, and Laibach, that the German delegates had absented themselves, but the country seemed scarcely prepared for the bold course upon which they have decided at Prague, and the issue of which is still in the future.

The Diet of Prague was opened on the 14th September by the Count Chotek, the late Austro-Hungarian envoy at St. Petersburg, and now temporary governor of Bohemia, who presented to the assembly the Prince George Loblowitz, the new grand marshal, who concluded an address in the Czechish language with these words:

"May the resolution of this assembly contribute to the well being of our country and to that of all the other countries united under the scepter of our Emperor and King."

The prince then said in German:

"In saluting this assembly in the two languages, I do not think I am observing an idle formality, but I think it a duty thus to act because I regard the observance of the equality of rights of the two peoples inhabiting this country, in the course of the deliberations of this assembly, as the first and the most important duty of him who presides at these sittings. I do not deny that I have belonged to a political party, but I promise henceforth to belong only to the service of my country."

The governor then read the imperial message, of which I append a translation. The passage in which the Emperor recognized the rights of the Kingdom of Bohemia, and promised to sanction them anew by the oath of his coronation, called forth enthusiastic and prolonged applause. The imperial message renewed in increased force the displeasure of the so-called constitutional press, and the sheets that sustain the ministry declare that their articles exhibit more of passion than of calm, serious, and impartial judgment. The *Freundenblatt*, for instance, is quoted as saying :

The Count Hohenwart should not be astonished if his projects of laws relating to modification in the provincial statutes and the electoral law are condemned and rejected without any examination.

The day after the delivery of the imperial message the German delegates developed their plan of operations.

They quitted the assembly, having addressed a declaration to the president, which contained these expressions :

The text of the imperial rescript places the Kingdom of Bohemia outside of the framework of the constitution, since according to the text itself, it no more imposes obligations on this country, but only upon the other kingdoms and countries of the monarchy, and consequently the constitutional rights of the inhabitants of Bohemia cease to be recognized. In view of this inadmissible basis that the government takes as its point of departure, we have reason to fear that it may be the desire to encroach upon the constitution in order to favor a policy which is not founded upon history, and that we can never recognize a policy the effect of which will be to break the national bands that unite the Germans in Austria; a policy, in fine, which compromises the force of the empire in giving to this country an exceptional situation, and places in danger the peace and the prosperity of the country in troubling the national equilibrium. We will never approve, and we cannot approve, a policy which is in contradiction with our Austrian convictions, with our sentiments and our national interests, and with our most sacred duties.

According to the newspaper reports, the declaration of the Germans was received in the Diet with bursts of laughter by the Czechs and Federalists. Three German deputies, one of them the Curé Platzer, declared that they were present by the votes of the electors, and they protested against the declaration of the centralists. The secession or abstention from the Diets and Reichsrath in past years by the Czechs and Poles was not too favorably regarded by the country, although it found a partial justification in the apology that the Czechs certainly had had no part in shaping the constitution, and had uniformly declined to recognize it.

"With the Austro-Germans," said a distinguished German to me, "the case is different; they have claimed to be the founders in Austria of constitutional government; they have enlogized it as a sacred thing; they have demanded acquiescence in the will of the majority, as the foundation of constitutional government, and the first time there is a constitutional majority against them they betray their own principles, and do the very thing they have condemned in others."

What the result is to be is doubtful; possibly some compromise, assisted by the influence of the German Empire, although how any compromise can now be proposed acceptable to the Czechs, who have the power in their own hands, and the pledged word of the Emperor, it is not easy to foresee. It is announced that Prince Hohenlohe is charged with the ceremonial preparations for the coronation at Prague, in the early part of the winter. What seems, for the time at least, an unfortunate feature of this procedure is, that it tends to revive, in all its narrowness and all its bigotry, that bane of Austrian politics, the doctrine of nationalities. The Germans, who were divided into conservatives and liberals, appear to be almost a unit against the other nationalities, and the lines

are drawn, not according to principles, but to race. The greatest interest excited by the election is shown by the statement, that the number of votes cast was 23 per cent. larger than usual. Of the electors who voted in Vienna, 89 per cent. are announced as against the government.

The simple and straightforward policy for the Germans would seem to be, according to our American ideas, to accept the situation and then proceed to prove their superior intelligence and culture by raising issues upon which they could, in a little while, divide the national votes and secure for themselves a majority. This, as an eminent German admitted to me, would be their true course; but he did not think it would be adopted. He hoped for some satisfactory solution of the difficulty by the aid of the great proprietors in Bohemia, who, with Czechs estates and adopted Czechish names, are in fact German in their ideas and sympathies. I annex a translation of an article from the *National Zeitung* at Berlin, which appeared while the elections were still pending, and which shows the importance there attached to the policy of the ministry, as involving a continuance of the friendly relations between the empires established at Gastein and at Salzburg. It seems a curious exemplification of the remark sometimes made, that political crises constitute the normal state of Austria, that the money-market is not at all disturbed by the proceedings at Prague. Indeed, I am told that some of the stocks showed an upward tendency just after the announcement of the German secession, and that Austrian paper is rising in value, but the Austrian lottery loans have somewhat declined.

I have, &c.,

JOHN JAY.

APPENDIX No. 1.

The imperial message to the diet of Prague.

TO THE DIET OF OUR KINGDOM OF BOHEMIA!

When by our ordinance of the 30th July, 1870, we convoked the diets of our kingdoms and countries, we were thereto decided by the grave events of which Europe had become the theater, and the development and incalculable bearing of which had demanded all our attention. Thanks to the Divine protection, we have succeeded in preserving in the midst of those events the blessings of peace, and now we can in all security devote ourselves to the task of consolidating the interior peace of the empire. Our first desire is to regulate in a manner just and satisfactory to all, the relations of our kingdom of Bohemia with the rest of the monarchy, of which the revision was promised by our rescript of the 25th of August, 1870. Considering the constitutional position of the crown of Bohemia, the glory and the power which it has afforded to us and our predecessors, considering besides the unshaken fidelity with which the population of Bohemia have always sustained the throne, we recognized willingly the rights of the kingdom, and we are ready to renew their acknowledgment by the oath of our coronation. We can no longer exempt ourselves from the solemn obligations which we have contracted in regard to our other kingdoms and countries by our diploma of the 20th October, 1866, by the fundamental laws of the 26th February, 1861, and of the 21st December, 1867, in fine by the oath taken on the occasion of our coronation to our kingdom of Hungary. We, therefore, take cognizance with satisfaction of the disposition expressed in the respectful addresses of the diet of the kingdom of Bohemia (of the 4th September and the 5th October, 1870) to place the demands of the country in harmony with the power of the empire, and with the legitimate exigencies of the other kingdoms and countries. It is in this sense that we invite the diet to devote itself to the work. We invite it to discuss in a spirit of moderation and of conciliation the manner in which it is advisable to regulate our kingdom of Bohemia, and to furnish us with a possibility of terminating, without violating the rights of our other kingdoms and countries, a constitutional conflict, the prolongation of which would gravely menace the interests of the faithful populations of our empire.

In charging our government to submit to the diet the new electoral system and a law for the protection of the two nationalities, we send to the diet our imperial and royal salutations.

FRANCIS JOSEPH.

APPENDIX No. 2.

[National Zeitung, Berlin.]

The elections in Austria.

The electoral movements in the German provinces of Austria are daily increasing in interest. The aggressive policy of the Hohenwart ministry is fulfilling a mission not intended by its authors; it is uniting the statesmen of the constitutional party, and purifying their policy from the petty secondary objects and constant collisions which have hitherto been the misfortune of that party, and have rendered fruitless the days of its rule.

We cannot yet see clearly the result of the elections, but if any gain should accrue to the government, it would only come from parties in whose eyes the open production of unconstitutional plans would not have injured the ministry; for beyond the Imperial House, and the nobility dependent upon it, the ministry can only count upon the support of those feudalists and ultramontanes, who are more inclined to assist the government in proportion to its hostility against Germanism and the constitution; there was no need for Count Hohenwart to conceal any of his plans from them. But the Germans are stirred up by the hostility of the ministry against them, and are united as they never were before. It is impossible to conceive a greater contrast than that between the last and the present elections; the uniting community of endangered interests has taken the place of personal wrangling, the finer shades of political opinion have disappeared; Rechbauer and Giskra, Kaisersfeld and Skene, the candidates of the towns, of landed property, and of the chambers of commerce, all solicit the suffrages of the electors under the same conditions and on the same programmes; and the electoral speeches of all the constitutional candidates exhibit a delightful harmony.

Full of significance are the words in which the old Deputy Skene again solicits the votes of his constituents. He says: "I am an Austrian, and abhor the policy of nationalities; but I must, unfortunately, expect that the conspiracy formed by the ministry against Germanism will have this consequence, that the Germans will be only national. When the time has come that the Germans are only national, then all parties in Austria will be outside the state." From the stand-point of the good Austrian patriot, the indictment against the "conspiracy" of the Hohenwart ministry could not be more strikingly formulated; but these words become still more important in the mouth of Deputy Skene, because they show in what way the opposite shades of opinion in the formerly divided party of the constitutional Germans arrive at the same point of union. We in Germany can very well understand the peculiar anxieties of the good Austrian patriots.

We, too, in the common interests of both empires, have most earnestly wished that the question of German nationality should not be stirred up in Austria. Whatever the more distant future may bring to pass, at present friendly relations between the two empires would be most serviceable to peace. We have, therefore, done all in our power to prevent a German nationality question in Austria from becoming the burning question immediately after the conclusion of peace with France. The Hohenwart ministry has deliberately, or from want of insight, introduced the dreaded question into politics at a very unsuitable time, for Europe is not yet sufficiently restored to peace to be able to bear without apprehension even a passing game with the dangerous question.

The most zealous efforts of diplomatists have little power over the national sympathies of peoples, which the present Austrian ministry so lightly inflames.

Whatever the foreign ministers may agree upon in their repeated interviews, for some time to come the relations between the two empires will be determined by the internal policy of Austria. Should the Hohenwart ministry succeed, with the aid of "successful" elections, in uniting the Germans of Austria into a national party outside the constitution, jealousy will be created which will be a bar to any friendship with Germany. The result of the elections will be decisive, not only as to the next stages of the constitution, but also as to the foreign relations of Austria.

BOLIVIA.

No. 4.

Mr. Markbreit to Mr. Fish.

No. 121.]

LEGATION OF THE UNITED STATES,
Cochabamba. April 11, 1871. (Received June 13.)

SIR: Before leaving La Paz I received a letter dated London, February 16, from Colonel George E. Church, the manager of the Bolivian Steam Navigation Company for the navigation of the Marmore and Madeira Rivers and their tributaries, informing me that he was about to return to the United States, to make arrangements for the transportation to Bolivia of two iron steamboats and one steam-launch, (built in the United States.) At the time of writing, Colonel Church, although aware of the revolution which had broken out in this country, had not yet learned its result.

In view of the importance of this enterprise, not only to Bolivia and Brazil, but to the commerce of the world in general, and remembering the interest demonstrated by the Department, where in dispatch No. 6, of October 7, 1869, it instructed me to use my good offices (unofficially) with the Brazilian charge d'affaires in furtherance of said enterprise, I deemed it expedient to ascertain, if possible, the intentions of the new government relative to the same. Accordingly on the 31st ultimo, with this purpose in mind, I had an unofficial interview with Colonel Morales and his secretary general, in which the former expressed himself most heartily in favor of that enterprise, and of every undertaking tending to the development of the country.

At my request Colonel Morales directed his secretary general to address me an official note, which, although not in such strong terms as had been agreed upon, may nevertheless be of considerable service to Colonel Church, as it will convince his associates that the new Bolivian administration is disposed to lend its assistance in carrying out this undertaking. I may add that all the prominent men in the republic are earnest advocates of this navigation scheme, looking upon it as the natural outlet for the immense productions of their country, and as the only means of ridding themselves of constant revolutions and political disturbances.

I inclose herein a translation of the note referred to.

I am, &c.,

L. MARKBREIT.

[Translation.]

SECRETARIATE GENERAL FOR FOREIGN AFFAIRS,
La Paz, March 31, 1871.

SIR: In virtue of the verbal conference which has taken place between the undersigned and yourself, (U. S. H.,) relative to the inquiry which you were pleased to make concerning the intentions entertained by the (excelentísimo) government of Bolivia in reference to the protection of the enterprises for the fluvial navigation of the eastern territory, His Excellency the Provisional President of the Republic has directed me to reply to you that he finds himself (que se halla) animated by the most patriotic sentiments to protect, with all his force, (con todas sus fuerzas,) all enterprises tending to the development of the riches of Bolivia, and the navigation of her vast rivers; and Colonel Church, being among this number, (y en contrandose el Sr. Coronel Church su el numero de ellos,) may rest persuaded of the philanthropic intentions of

his excellency Colonel Morales, the undersigned being able to assure you that he (Colonel Church) will not be prejudiced in his interests.

In this manner I reply to you, subscribing myself your attentive, sincere servant,
CASIMIRO CORRAL.

Hon. LEOPOLD MARKBREIT,

Minister Resident of the United States, &c., &c., &c.

No. 5.

Mr. Markbreit to Mr. Fish.

No. 126.]

LEGATION OF THE UNITED STATES,
Cochabamba, May 15, 1871. (Received July 3.)

SIR: Inclosed I have the honor to transmit a decree (inclosure No. 1) issued by the provisional government of Bolivia, together with a note (inclosure No. 2) from the secretary general, defining the course which the Bolivian government intends to pursue in all cases of claims presented by foreigners, and declaring in how far the government will admit of diplomatic intervention on behalf of such claimants. I beg to call your attention to article 4 of said decree. I also inclose a copy of my reply (inclosure No. 3) to the secretary general's note.

I am, &c.,

L. MARKBREIT.

[Inclosure No. 1.—Translation.]

Augustin Morales, Provisional President of the Republic, invested by the people with ample faculties, considering—

1. That the equality of all persons before the law is the basis of a republic;
2. That the government cannot invade nor usurp the attributes of judicial power, which has the mission to judge and decide upon all claims of a private nature;
3. That various diplomatic agents have presented certain claims—which may be just or unjust—directly to the government, in favor of their subjects, thereby involving diplomatic discussion, without having previously invoked, on the part of those interested, the intercession of the courts and tribunals charged with the administration or justice for all citizens;

4. That such proceedings are contrary to the rules of international law;

5. That it is necessary to determine a general rule, in order that all claims of foreign subjects may be adjudicated in accordance with the laws of Bolivia and the usage of international law:

It is therefore decreed:

ARTICLE I. The government of Bolivia will not admit diplomatic reclamations, nor the interposition nor good offices (personeria) of the public agents of other nations, in questions of private interests, unless such questions have been previously submitted for adjudication to the courts and tribunals of the republic.

ARTICLE II. Only in cases of refusal or delay of justice will the government admit the intervention of foreign public agents.

ARTICLE III. The government will not admit reclamations in questions which have already been disposed of in accordance with the laws of the country, nor in cases which have been finally adjudicated, in accordance with such laws, by the tribunals.

ARTICLE IV. The government, however, will accept direct reclamations in cases permitted by international law.

The secretary general is charged with the publication of this decree, and will communicate the same to all concerned.

Done at the city of Cochabamba, this 8th day of May, 1871.

(Signed)

AUGUSTIN MORALES.

(Countersigned)

The Secretary General, PEDRO GARCIA

Official:

GARCIA.

[Inclosure No. 2.—Translation.]

SECRETARIATE GENERAL, SECTION FOR FOREIGN AFFAIRS,
Cochabamba, May 9, 1871.

SIR: The secretary general of state, in charge of the department for foreign affairs, has the honor to transmit herewith to the honorable Colonel L. Markbreit a decree issued by this government, declaring the conduct which it intends to observe in respect to demands and claims presented by foreign subjects against the state, cases of intervention in the same by diplomatic agents, and the right of the government to accept such intervention in cases permitted by international law, or not to admit the same in cases where the subject of controversy appertains exclusively to the courts and tribunals of the republic.

Colonel Markbreit, in his high illustration, (*alta ilustración*), will comprehend that the declaration contained in the aforementioned decree is simply a line of conduct which the government has imposed itself, as all are equal before the law, and because the executive of the country cannot arrogate unto himself a knowledge of questions belonging exclusively to the judicial power, which has the mission to administer impartial justice without distinguishing nationalities nor the quality of individuals.

Moreover, the honorable Colonel L. Markbreit knows that it is a universal principle of international law that the demands and controversies of foreign subjects cannot be subjected to a better or worse condition than those of native subjects or citizens. (*nacionales*), and that, consequently, if they are, or believe themselves, damaged in their interests, they have the means at their disposal of invoking the laws of the country and solicit their enforcement.

This is in accordance with the demands of universal justice, of civilization, and of public law.

In noting the contents of the declaration alluded to, the honorable Colonel Markbreit will please judge, from its true standpoint, the frank, friendly, and circumspect conduct which the government of Bolivia proposes to follow in all questions of a private nature, in order to prevent and avoid any difficulties that might arise in his diplomatic relations, which so happily are being cultivated, (*que tan felizmente se cultivan*), and which it is vehemently desired to draw closer and closer with the (*excelentísimo*) Government of the United States of North America, so worthily represented by the honorable Colonel L. Markbreit.

The undersigned avails himself of this opportunity to assure the honorable Colonel Markbreit of the high esteem and respect with which he has the honor to subscribe himself his attentive and sincere servant,

PEDRO GARCIA.

Hon. Colonel L. MARKBREIT,
Minister Resident of the United States of North America in Bolivia.

[Inclosure No. 3.]

LEGATION OF THE UNITED STATES,
Cochabamba, May 12, 1871.

SIR: The undersigned, minister resident of the United States, in acknowledging the receipt of your excellency's esteemed note of the 9th instant, and the decree therein transmitted, in which the government of Bolivia defines the conduct which it intends to observe in reference to all demands and claims from foreign subjects against the state, has the honor to say, in reply, that he will take pleasure in communicating the same to his Government.

The undersigned is exceedingly gratified at the sentiments expressed in your excellency's communication relative to the laudable desire entertained by the government of Bolivia, to draw closer and closer the friendly relations which happily subsist between the two republics, and begs to assure your excellency that nothing shall be wanting on his part to contribute toward that end.

The undersigned avails himself of this occasion to offer to your excellency the assurances of his most profound and distinguished consideration with which he has the honor to remain,

Your excellency's obedient servant,

L. MARKBREIT.

His Excellency Doctor DON PEDRO GARCIA,
Secretary General of Bolivia, &c., &c., &c.

No. 6.

Mr. Markbreit to Mr. Fish.

No. 142.]

LEGATION OF THE UNITED STATES,
Sucre, August 28, 1871. (Received October 14.)

SIR: I have the honor to report to you the arrival in this city, on the 30th ultimo, of Colonel George E. Church, president of the "National Bolivian Navigation Company."

In view of the importance of his enterprise, I believe that a brief detail of his operations during the last three years may be of interest to the Department, as showing the political relations existing between this country and its neighbors, and the great delicacy it has required to place Colonel Church's navigation and railway schemes in such condition as may insure their early realization.

The Department is well aware that the sword-point relations existing for three centuries between old Spaniard and Portuguese lost but little of their bitterness at the date of the independence of these countries, and their formation into empire and republics.

The vast valley of the Amazon, in Brazil, was found by the empire to be of very unwieldy management, and in the opening of the great river to all flags, before the settlement of frontier questions with the states at the headwaters, there was fear that imperial border might lose something of its proportions.

This was probably the principal cause for the policy of Brazil up to 1866 and 1867.

At this date, however, Brazil was engaged in a war with Paraguay, ostensibly to open the Paraguay River, that perfect freedom of communication might be had with the Brazilian province of Mato-Grosso.

It attracted much attention among the liberal party of the empire that war was waged in the Plata Valley for freedom of navigation, while Brazil herself denied this freedom to the republics at the headwaters of the Amazon.

This contradictory position of the imperial government probably forced the opening of a part of the Amazon at least ten years sooner than it would have taken place in normal times.

Knowing the policy of Brazil in the Amazon, Colonel Church stipulated, on the part of his company, that Bolivia should negotiate with Brazil the right to build a railway past the rapids of the Madeira River, and transfer it to the company. Moreover, that perfect freedom of navigation for all flags should be decreed from Borba to San Antonio. Up to the former point, as the Department is aware, this freedom exists, according to the Brazilian decree of December, 1867.

Bolivia made every effort to comply with its contract with Colonel Church. Two different legations were accredited to the court of Rio de Janeiro, but retired without results; and a year and a half was uselessly consumed. The Bolivian government then requested Colonel Church to undertake the negotiation. To this he consented and reached Rio de Janeiro, from Bolivia, in the midst of the great yellow fever season, in February, 1869. The result of a seventy days' negotiation was a concession made to him personally (see dispatch No. 55) by the empire, allowing the construction of a railway at the rapids, and a verbal assurance that in a short time the Madeira from Borba to San Antonio would be opened to all flags. At present this stretch of four hundred miles is only navigable for the Brazilian and Bolivian flags, by the treaty of March 27, 1867, between the two governments.

It appears that Colonel Church has organized the "Maderia and Mar-more Railway Company" in London, (see dispatch No. 125,) and that the one hundred and seventy miles of road is already under contract with one of the most powerful associations of contractors in Europe, the Public Works Construction Company, of London. The whole line is to be in working order on the 1st of January, 1874.

In aid of the National Bolivian Navigation Company, the Bolivian government, in December of 1868, made a contract with Colonel Church for the negotiation of a loan of £2,000,000 sterling, the company offering as a guarantee its three-fourths of the import duties conceded to it as a subsidy, and its net earnings; while the government, giving the other fourth or import duties, was to enjoy, in consequence, seventeen per centum of the net products of the loan.

At the request of the government, Colonel Church undertook the negotiation of this loan, and was commissioned special agent for the purpose. It appears that he carried it to a great success in London and on the continent of Europe—so great, that it is virtually taken "*firm*" by a very prominent banking-house, namely, by Messrs. Emile Erlanger & Co. The company will thus find themselves in possession of several millions of gold, which will enable them to carry out their plans on a very large scale. Their custom-house subsidy alone must, in the course of time, give them immense returns. They have, in fact, in their hands almost complete commercial control over four-fifths of the 2,500,000 inhabitants of the Amazon Valley, and there is good reason to believe that their enterprise is destined to attract great attention.

All these operations have been undertaken and pushed ahead under the most extraordinary difficulties.

None of these, not even the Franco-Prussian war, the recent revolution in this republic, Peruvian and Chilian opposition to the loss of Bolivian trade by the Pacific coast, &c., have been able to impede the steady march forward of the National Bolivian Navigation Company.

It is evident that great political changes are to result in South America from the turning of Bolivian commerce from the Pacific to the Atlantic front of South America. Henceforth the commercial and friendly relations of Bolivia and Brazil must necessarily become very closely interwoven. For the first time, in fact, since the occupation of this continent by the Europeans, is a real solid effort being made to turn Portuguese American and Spanish American interests into a common channel, and make South America more homogeneous.

In solving this problem between Bolivia and Brazil, Colonel Church is doing a great service to every republic at the headwaters of the Amazon, and also to civilization.

His operations as special agent of Bolivia have, since his arrival, been submitted by the government to the national assembly, now in session in this city; which body, after a strong debate of eight days, has approved them in all their parts by a vote of forty-five in favor against seven in contra.

I am, sir, very respectfully, your obedient servant,

L. MARKBREIT.

Hon. HAMILTON FISH,

Secretary of State, Washington, D. C.

BRAZIL.

No. 7.

Mr. Blow to Mr. Fish.

No. 143.]

LEGATION OF THE UNITED STATES,
Rio de Janeiro, November 5, 1870. (Received December 22.)

SIR: I now have the honor to state, in reply to your dispatch No. 39, that I have inquired particularly about the American emigrants at Para supposed to be in destitute circumstances, without obtaining any information concerning them. No complaint has been addressed me in any way by them, and I therefore indulge the hope that by some good providence they have been enabled to return to the United States. The principal American colony remaining in Brazil is engaged in the culture of cotton, and claims to be doing well, though most of the members are dissatisfied, living frugally, and will doubtless return to their old homes as soon as their means will permit.

I am, &c.,

HENRY T. BLOW.

No. 8.

Mr. Fish to Mr. Wright.

No. 52.]

DEPARTMENT OF STATE,
Washington, January 31, 1871.

Sir: I transmit a copy of a letter of the 21st instant addressed to this Department by C. A. Washburn, esq., late minister of the United States to Paraguay, relative to certain property, the most valuable part of which was placed in his custody by residents of Asuncion, and which, on leaving there, he says remained at his place of abode. That building was taken possession of by the Brazilian forces on their entrance into Asuncion, and the property adverted to is alleged to have been seized as booty by soldiers in the service of that empire.

Mr. Washburn also says that he warned the depositors that, in accepting the trust which they thought proper to confer upon him, neither his Government nor himself personally was to be held accountable for the safe-keeping of the property. This Government claims no right to interfere for the recovery of the value of such part of it as did not belong to itself or to citizens of the United States, but it may be supposed that, under the circumstances attending the trust, and in view of the standing of the depositors, that government might of its own accord make amends to them. So far as appears, the owners of the foreign property were women, helpless non-combatants, whom a powerful and generous enemy would not voluntarily or unnecessarily injure. Their property, too, was lodged in a house which was the legation of the United States, and though the minister himself was absent at the time of the seizure, it is understood that the flag of the United States was still flying there. The capture of the property of merely technical enemies so situated, seems not to be in harmony with the rule of the freedom of enemy's property at sea, which is understood to be respected by the Brazilian government.

You will consequently sound the minister for foreign affairs upon this subject. If you should find him not averse to entertaining the complaints of the Paraguayan ladies, measures may be adopted toward obtaining such proof as to the extent of their losses as may be attainable. You will, in any event, give him to understand that reparation will be expected for the seizure of the property of this Government, of Mr. John A. Duffield, and of Mr. Washburn himself.

I am, &c.,

HAMILTON FISH.

No. 9.

Mr. Fish to Mr. Blou.

No. 54.]

DEPARTMENT OF STATE,

Washington, February 22, 1871.

SIR: I have to acknowledge the receipt of your dispatch (without number) of the 10th, with inclosure, relating to the complaint of Mr. Thomas Rainey against certain action of the authorities of Brazil. I have examined these voluminous documents sufficiently to ascertain that Mr. Rainey's grievances, real or supposed, arise out of one or more contracts into which he voluntarily entered with the Brazilian government, as well in his private capacity as that of the representative of a corporation or joint-stock association, organized under the laws of Brazil.

The following extract from instructions recently addressed to Mr. De Long, minister to Japan, and which, in substance, have been repeatedly addressed to other ministers, will apprise you of the views of this Department in relation to such cases. The considerations which forbid public intervention have peculiar force where the parties asking it are the members of a foreign corporation:

"Another class of claims is those against the government of Japan, not springing from torts, but founded on contract, express or implied. In respect to such claims, the policy and practice of this Government has been in accordance with the principle stated by John Quincy Adams, then Secretary of State, in a letter to the Spanish minister at this capital, dated April 29, 1823, in these terms: 'With regard to contracts of an individual born in one country with the government of another, most expressly when the individual contracting is domiciliated in the country with whose government he contracts, and formed the contract voluntarily for his own private emolument, and without the privity of the nation under whose protection he had been born, he has no claim whatever to call upon the government of his nativity to espouse his claim, this government having no right to compel that with which he voluntarily contracted to the performance of that contract.'

"Such cases have accordingly not been regarded as proper subjects of public intervention, but have, when the merits of the claim appeared clear, been commended to the attention of our diplomatic representatives, with a view to the exertion, unofficially, of his friendly influence to procure an examination and equitable adjustment by the government concerned."

You would appear from the papers to have given to Mr. Rainey's case all the attention to which it is entitled.

I am, &c.,

HAMILTON FISH.

No. 10.

Mr. Wright to Mr. Fish.

No. 164.]

LEGATION OF THE UNITED STATES,
Rio de Janeiro, March 20, 1871. (Received April 24.)

SIR: I have the honor to acknowledge the receipt of your dispatch No. 52, in reference to certain property of Paraguayans, of the Government of the United States, of Mr. Washburn, and Mr. Duffield, alleged to have been seized as booty at the legation of the United States in Asuncion, by soldiers in the service of the empire of Brazil, upon their entrance into that capital. Your instructions upon this subject have my attention, and I shall seek an early occasion for a conference in conformity therewith, with the minister of foreign affairs.

Of the result you shall be duly informed.

I have, &c.,

ROBERT CLINTON WRIGHT.

No. 11.

Mr. Wright to Mr. Fish.

[Extract.]

No. 167.]

LEGATION OF THE UNITED STATES,
Rio de Janeiro, March 24, 1871. (Received April 24.)

SIR: In continuation of my dispatch No. 164, I have now the honor to inform you that I yesterday had a conference with the minister of foreign affairs in reference to the subject of your dispatch No. 52. I preferred to confer with him personally in the first place, rather than to make the matter the subject of a note, and after reading to him an extract from your dispatch, which I had prepared to leave with him, I called his attention to the fact that the question involved was the recognition of a principle, and that as he would naturally desire to consult his colleagues, I should not then press him for any solution. I saw plainly that the whole subject of Paraguay was a sore one; but the minister promised to inform himself, and then give me his views.

I have, &c.,

ROBERT CLINTON WRIGHT.

No. 12.

Mr. Wright to Mr. Fish.

No. 174.]

LEGATION OF THE UNITED STATES,
Rio de Janeiro, May 22, 1871. (Received June 20.)

SIR: I have the honor to refer again to your dispatch No. 52, concerning the invasion of the legation of the United States at Asuncion, upon the occupation of that city by the Brazilian forces.

In my dispatches Nos. 167 and 169 I had the honor to inform you of

the action I had deemed it best to take, under the instructions conveyed to me by your dispatch No. 52, above referred to; that I had placed an extract from your dispatch in the hands of the minister of foreign affairs, and was awaiting a promised solution. Some weeks having passed without my having received any definite reply from the minister, I considered that the time had arrived to present the matter in a more formal shape, and to press the subject a little upon his attention.

I consequently, on the 4th instant, addressed him a note, of which I annex copy, No. 1, but still remain without a reply. Some excuse for this may, perhaps, be found in the meeting of the chambers of which the ministers are members.

I have, &c.,

ROBERT CLINTON WRIGHT.

No. 1.

Mr. Wright to Mr. Correia.

LEGATION OF THE UNITED STATES,
Rio de Janeiro, May 4, 1871.

The undersigned, acting chargé d'affaires of the United States of America, presents his compliments to his excellency Mr. Manoel Francisco Correia, and has the honor to state that he placed in the hands of his excellency, some weeks since, an extract from a dispatch of the honorable Hamilton Fish, Secretary of State of the United States, dated January 31 last, referring to certain property of Paraguayans, of the Government of the United States, of Mr. John H. Duffield, and of Mr. Washburn, which was left by Mr. Washburn at the legation of the United States, at Asuncion, upon his retiring therefrom.

That legation, as appears from the dispatch referred to, was taken possession of by the Brazilian forces upon their entrance into Asuncion, and the property adverted to is alleged to have been seized as booty by soldiers in the service of the empire.

His excellency will have seen that, while the Government of the United States claims no right to interfere for the recovery of the value of such part of this property as did not belong to itself or to citizens of the United States, it nevertheless appeals to the magnanimity of the imperial government in behalf of those Paraguayans who had deposited their property at the American legation. The Government of the United States goes further, and submits to the government of Brazil whether the position of this Paraguayan property, on deposit at the legation of the United States, was not analogous to that of an enemy's property on board a neutral ship at sea, which is exempt from seizure, under a principle understood to be respected by the Brazilian government. As regards the property of the United States, the property of Mr. John A. Duffield, and of Mr. Washburn, for this the Government of the United States will, in any event, expect reparation.

The object of the undersigned in now placing these matters in their present form before his excellency Mr. Manoel Francisco Correia is that he may make it the occasion of requesting that his excellency will have the kindness to inform him what may be the views of the imperial government in regard to the property of the Paraguayans, which was deposited at the United States legation at Asuncion, the claimants for which are believed to be mostly helpless and destitute women. If the government of Brazil, responding to the appeal made so confidently to its magnanimity by the Government of the United States, shall favorably entertain the claims of those unfortunate Paraguayan women, steps will be taken to lay before the imperial government such proof as to the extent of their losses as may be attainable.

The undersigned solicits the early attention of his excellency Mr. Manoel Francisco Correia to this matter, and avails of the occasion to renew to his excellency the assurances of his high respect and distinguished consideration.

ROBT. CLINTON WRIGHT.

No. 13.

Mr. Fish to Mr. Wright.

No. 65.]

DEPARTMENT OF STATE,
Washington, May 25, 1871.

SIR: Your dispatch No. 169, of the 19th ultimo, reporting an interview with the minister of foreign affairs of Brazil, in regard to the invasion of the legation of the United States at Asuncion, by Brazilian soldiers, has been received. The objection of the minister of foreign affairs to the complaint cannot be regarded as by any means conclusive.

The mere fact that some time may have elapsed between the departure of Mr. Washburn and the entrance of the Brazilian forces into Asuncion does not admit a presumption that the legation could have been sacked by Paraguayans.

The obvious probabilities are so much the reverse, that we may deem ourselves warranted in stating that the whole burden of showing that the robbery was committed by Paraguayans must be assumed by Brazil.

Of course, if this can be satisfactorily done, the accountability of Brazil in the matter will be at an end.

I am, &c.,

HAMILTON FISH.

No. 14.

Mr. Fish to Mr. Partridge.

No. 3.]

DEPARTMENT OF STATE,
Washington, June 10, 1871.

SIR: By an instruction of the 7th of October, 1869, your predecessor was authorized to use his good offices unofficially toward bringing to a successful close certain negotiations, which were understood to be on foot at Rio de Janeiro, between Brazil and Bolivia, with reference to the navigation of the Madeira River. We are not informed what progress has been made in those negotiations.

On the 29th of June, 1870, however, Congress passed an act incorporating the National Bolivian Navigation Company. It is understood that one of the purposes of that company is to prosecute navigation by steam on the river adverted to. As the company is believed to be composed mainly of citizens of the United States, this Government is naturally desirous that any obstacles to the success of their enterprise should be removed. Mr. James S. Mackie, one of the directors, has addressed a letter to the Department, requesting that the instruction to Mr. Blow might also be addressed to you.

You will consequently so regard it.

I am, &c.,

HAMILTON FISH.

No. 15.

Mr. Wright to Mr. Fish.

[Extracts.]

No. 178.]

LEGATION OF THE UNITED STATES,
Rio de Janeiro, June 10, 1871. (Received July 14.)

SIR: Asking your reference to my dispatch No. 174, of the 22d ultimo, and to the copy of a note accompanying it, which I had addressed to the minister of foreign affairs, concerning the alleged invasion of the legation of the United States at Asuncion, by soldiers in the service of the empire of Brazil, I have now the honor to transmit herewith, No. 1, a translation of the minister's reply to my note above cited, and, No. 2, a copy of my answer to the minister's note.

From the former you will observe that the minister proposed to deliver to such person as I might indicate all the property taken possession of at the legation at Asuncion, without distinction, in accordance with the schedules prepared at the time by a commission of officers appointed for the purpose; and, from the latter, that I have accepted the minister's proposition, and have requested that the delivery may be made to the Hon. John L. Stevens, our minister at Paraguay, or to his representative.

I am awaiting a copy of the schedules referred to by the minister, and for which I have asked, that I may send it to Mr. Stevens, and inform him of the arrangement which has been made.

I have asked for two copies of the schedules, that I might send one to you.

You will please observe that, while accepting the minister's proposition, I have still reserved the right to our Government to take such further action as it may deem proper. * * * *

Trusting that my action in this matter may meet your approval, I have &c.,

ROBT. CLINTON WRIGHT.

No. 1.

[Translation.]

*Mr. Correia to Mr. Wright.*RIO DE JANEIRO,
Ministry of Foreign Affairs, May 30, 1871.

I have the honor to acknowledge the receipt of the note which Mr. Robert Clinton Wright, chargé d'affaires of the United States, addressed to me on the 4th instant.

The senior chargé d'affaires refers to the extract from the dispatch of Mr. Hamilton Fish, dated 31st January last, which he delivered to me some days since, and in which his excellency refers to articles belonging to Paraguayans, to the Government of the United States, and to Messrs. A. Duffield and Washburn, left by the latter at the American legation at Asuncion when he retired thence.

Mr. Wright observes that from the dispatch referred to, it appears that the Brazilian forces, upon entering that capital, took possession of the said legation, and that the enemy's property was seized by the said forces. The senior chargé d'affaires states that his government makes no claim for any property not belonging to it or to American citizens; it appeals, nevertheless, to the magnanimity of the imperial government in favor of the Paraguayans who deposited their effects in the American legation. The Government of the United States, adds Mr. Wright, goes farther, and submits to that of Brazil the following question: Whether the Paraguayan property

deposited in the said legation was not in analogous circumstances to that of the enemy's property on board of a neutral ship at sea, which is not subject to seizure, under a principle admitted by Brazil. As regards the property of the United States and that of Messrs. Duffield and Washburn, the American Government, in any event, expects reparation.

The question being placed in this form, the *senhor chargé d'affaires* concludes by requesting that I will communicate to him the views of the imperial government in reference to the property deposited at the American legation, which, for the most part, belongs to poor and helpless women. That if the government of Brazil, according to the appeal which is confidently made to its magnanimity by that of the United States, shall entertain favorably the claims of the unfortunate Paraguayan women, the proofs of the losses sustained by them, which it may be possible to obtain, would be submitted to its consideration.

With this résumé of the note of the *senhor chargé d'affaires*, I proceed to give him due answer, which will be preceded by a narrative of what occurred in connection with this matter.

Mr. Kirkland, commander of the steamer "Wasp," addressed, on the 25th February, 1869, to the commander-in-chief of the Brazilian forces operating in Paraguay, a dispatch which closes as follows: "I have also to call your excellency's attention to the fact that, since the occupation of the city of Asuncion by the Brazilian army, the house which was occupied by the legation of the United States has been visited and sundry boxes, some of which were sealed, opened by force, and their contents taken away; besides this, the official archives of the legation have been removed. I request that your excellency will issue orders to those under your command, that they shall deliver to me, on board this vessel, all property belonging to the legation of the United States which may be in their possession." On the 7th March the Brazilian general received another dispatch, in which Mr. Kirkland makes the following communication: "I have the honor to inform you of my departure, and to notify you that I have named Commander Frank MacNevin as agent of the United States *pro tempore* at this port, to receive and keep, until they shall be claimed by the proper authorities, all property and papers, of whatsoever kind or nature they may be, belonging to the Government of the United States, and which may be delivered to him by you in virtue of my request of the 25th February, or which may come into his hands through any other channel." In a dispatch of the 8th March, Marshal Guilherme Xavier de Souza, after stating that he could not admit the claim of the commander of the "Wasp," as this was a matter which belonged to the governments and their diplomatic agents, set forth the motives which obliged the Brazilian military authorities to take possession of the property found in the house No. 95 Justice street, where, it is stated, Mr. Washburn had lived.

This statement is indispensable to my answer, and therefore I must transcribe it here.

"The city of Asuncion was converted into a 'peace forte' by General Lopez, who, at the same time, obliged the unfortunate inhabitants, natives and foreigners, to retire to the interior, taking with them whatever they could carry.

"Many months after this forced emigration, and when the city was abandoned even by the Paraguayan forces which had garrisoned it, the allied armies, victorious in various battles, in December entered it.

"It is true that the Brazilian forces were the first that entered, and it is also true that they found many houses open, others without roofs. This took place on the 1st January, at night. The first care of the Brazilian colonel, Hernes Ernesto da Fonseca, commander of that brigade which preceded by a few days the body of the allied armies which marched by land, was to cover the interior line of the city, availing himself of the entrenchments of the enemy to distribute patrols to police the city, and to place guards in those houses which had the shields of the French and Italian consulates as well as in other buildings where he could see or might presume that they contained objects of value.

"One of the houses in which the latter precaution was taken was that of No. 95, Justice street, where, it is said, the *senhor ex-minister* of the United States, Washburn, had lived. The motive of the precaution taken by the Brazilian military authority being known, it is proper to state the manner in which the articles found in the said house were taken possession of.

"The articles found in this house, says Marshal G. X. de Souza, in his above-cited dispatch, were inventoried and placed in security by a commission of officers from the military and civil department of the Brazilian army, named for this purpose by Marshal Marquis, of Caxias, all of which appears from the respective reports made in the most precise, authentic, and trustworthy manner."

These reports were published at pages 107 to 109 of the report of this Department for the year 1869, and in them is stated the amount of jewels and other articles found at the said house. Some furniture was also found, and a box fastened with screws, which were already apparently injured, having on the top a label which stated that it contained the archives of the American legation. Neither externally nor internally did the said house indicate that it had been the habitation of the minister of the United

States, who had retired months before the events which delivered Asuncion into the possession of the allies.

Furthermore, it did not appear natural, as the Brazilian general observed, that he should fail to take with him the archives of the legation, or to confide them to the care of the consular agents residing at Asuncion. And the circumstance of the American minister having occupied the house in reference was not of itself sufficient to determine the true origin of the deposits alluded to.

It may be added that with the withdrawal of Mr. Washburn from Paraguay, the privileges enjoyed by his residence ceased. "From the moment a public minister," says H. Wheaton, *Elements International Law*, compiled by Dana, section 224, "enters the territory of the State to which he is sent, *during the time of his residence, and until he leaves the country*, he is entitled to an entire exemption from the local jurisdictions, both civil and criminal." These weighty considerations, as well as the want of authority of Mr. Kirkland, gave rise to the refusal of the Brazilian general to deliver to that commander the articles found in the house which Mr. Washburn had occupied.

But, in the same dispatch in which the Brazilian general conveyed this refusal to Mr. Kirkland, he declared that the restoration should be made as soon as it should be proved that the articles referred to belonged to Mr. Washburn or to persons who had not served the cause of the enemy.

In taking possession of them, Brazilian authority had no other object than to place them in safety that they might be delivered in proper time to the legitimate owners. Of this purpose irrefragable testimony is borne by the fact that large sums of money were scrupulously delivered to the provisional government of Paraguay, which under constitutional right might have been considered as prize to the victor. The imperial government has therefore resolved, in accordance with its previous action, to deliver to the Government of the United States all the articles found at the house in which Mr. Washburn had resided, without making any distinction between those which belonged to American citizens and which belonged to Paraguayans. This resolution does away with the necessity of any discussion as to the analogy between enemy's property deposited at the aforesaid house, and that which may be found on board a neutral vessel at sea. As a consequence of the said resolution, I shall ask the war department to issue the necessary order to deliver to the persons designated by the *senhor chargé d'affaires*, the articles taken possession of by the Brazilian military authorities which were found in the house, at the city of Asuncion, occupied by the American minister. The delivery will be made in conformity with the reports made upon the occasion of the taking possession of the property. I avail myself of the occasion to renew to Mr. Wright the assurances of my very distinguished consideration.

MANOEL FRANCISCO CORREIA.

No. 2.

Mr. Wright to Mr. Correia.

LEGATION OF THE UNITED STATES,
Rio de Janeiro, June 3, 1871.

The undersigned, acting *chargé d'affaires* of the United States, has the honor to acknowledge the receipt of the note addressed to him by his excellency Mr. Manoel Francisco Correia, under date of the 30th May, in reply to his note of the 4th of the same month, in reference to certain property of Paraguayans, of the Government of the United States, and of Mr. John A. Duffield and Mr. Washburn, alleged to have been seized as booty by soldiers in the service of the empire of Brazil, upon the occupation by them of the city of Asuncion. His excellency refers, in the first place, to a demand made by Commander Kirkland, of the United States steamer *Wasp*, upon the commander-in-chief of the Brazilian forces operating in Paraguay, Marshal Guilherme Xavier de Souza, for the delivery to him of the property which had been seized at the United States legation, and observes, citing Marshal Souza's dispatch of the 8th March, in reply to Commander Kirkland, that the Marshal, after stating that he could not admit the claim of the commander of the *Wasp*, as this was a matter which belonged to the governments and their diplomatic agents, sets forth the motives which obliged the Brazilian military authorities to take possession of the property found in the house No. 95 Justice street, where it was stated Mr. Washburn had lived. This statement of Marshal Souza, his excellency considers indispensable to his reply, and consequently transcribes it. From this statement it appears that Asuncion was converted by General Lopez into a "place forte," who, at the same time, obliged the inhabitants, natives and foreigners, to retire to the interior, taking with them whatever they could carry; that many months after this forced emigration, and when the city was abandoned even by the Paraguayan forces which had garrisoned it, the allied

armies, victorious in various battles in December, entered it; that it is true that the Brazilian forces were the first that entered, and it is also true that they found many houses open and others unroofed; that this took place on the 1st January at night; that the first care of the Brazilian Colonel Hermes Ernesto da Fonseca, commander of the brigade which preceded by a few days the body of the allied armies which marched by land, was to cover the interior lines of the city, availing himself of the entrenchments of the enemy, to distribute patrols for the policing of the city, and to place guards in those houses which bore the shields of the French and Italian consulates, as well as in other buildings where he could see or might presume that they contained objects of value; that one of the houses in which the latter precaution was taken was that of No. 95 Justice street, where, it is said, the ex-minister of the United States had lived.

His excellency continues: "The motive of the precaution taken by the Brazilian military authority being known, it is proper to state the manner in which the articles found in the said house were taken possession of," and for this purpose quotes further from the statement of Marshal Sonya, as follows: The articles found in this house were inventoried and placed in security by a commission of officers from the military and civil departments of the Brazilian army, named for this purpose by Marshal Marquis, of Caxias, all of which appears from the respective reports made in the most precise, authentic, and trustworthy manner.

His excellency next observes that these reports were published at pages 107 to 109 of the report of the department of foreign affairs for the year 1869, and that in them is stated the amount of jewels and other articles found at the said house; that some furniture was also found, and a box fastened with screws, which were already apparently injured, having on the top a label which stated that it contained the archives of the American legation; that neither externally nor internally did the said house indicate that it had been the habitation of the minister of the United States, who had retired months before the events which delivered Asuncion into the possession of the allies; that furthermore, as Marshal Sonya observed, it did not appear natural that the minister should fail to take with him the archives of the legation, or to confide them to the care of one of the consular agents residing at Asuncion, and that the circumstance of the American minister having occupied the house in reference was not of itself sufficient to determine the true origin of the deposits alluded to. "It may be added," says his excellency, "that with the withdrawal of Mr. Washburn from Paraguay the privileges enjoyed by his residence ceased." "From the moment a public minister," says H. Wheaton, (Elements of International Law compiled by Dana, section 241) "enters the territory of the state to which he is sent, *during the time of his residence and until he leaves the country*, he is entitled to an entire exemption from the local jurisdiction, both civil and criminal. These weighty considerations, as well as the want of authority of Commander Kirkland," continues his excellency, "gave rise to the refusal of the Brazilian general to deliver to that commander the articles found in the house which Mr. Washburn had occupied; but that in the same dispatch in which the Brazilian general conveyed this refusal to Commander Kirkland, he declared that the restoration should be made as soon as it should be proved that the articles referred to belonged to Mr. Washburn or to persons who had not served the cause of the enemy; and that, in taking possession of them, the Brazilian authority had no other object than to place them in safety, that they might be delivered, in proper time, to the legitimate owners, of which purpose irrefragable testimony is borne by the fact that large sums of money were scrupulously delivered to the provisional government of Paraguay, which, under constitutional right, might have been considered as prize to the victor."

His excellency concludes by informing the undersigned that the imperial government has resolved, in accordance with its previous action, to deliver to the Government of the United States all the articles found at the house in which Mr. Washburn had resided, without distinction between those which belonged to Americans and those which belonged to Paraguayans; that this resolution does away with the necessity of any discussion as to the analogy between enemy's property deposited at the aforesaid house, and that which may be found on board a neutral vessel at sea; and that, as a consequence of this resolution, his excellency would ask the War Department to issue the necessary orders to deliver to the person designated by the undersigned the articles taken possession of by the Brazilian military authorities, and which were found in the house, at the city of Asuncion, occupied by the American legation, which delivery will be made in conformity with the reports or schedules made upon the occasion of the taking possession of the property. This, the undersigned believes, is a clear résumé of his excellency's note, to which he has the honor to reply.

In justification of the demand addressed by Commander Kirkland to Marshal Sonya, the undersigned would state that it is a sanctioned practice under his government that the commanders of national ships, where the interests of their country may seem to require it, and they may find no diplomatic or consular representative of their government present, may exercise consular or even quasi-diplomatic functions.

Touching the observation of Marshal Sonya, that it did not appear natural that Mr.

Washburn should have failed to take the archives of the legation away with him, or to confide them to the care of one of the consular agents residing at Asuncion, the undersigned begs to say that Mr. Washburn asserts that he delivered the keys of the house he had occupied to the Italian consul, Mr. Lorenzo Chapperon; but even had he not done this much there would have been nothing unnatural in the omission, nor in his not removing the archives, for it must be remembered, and this can scarcely have been unknown to Marshal Souya, that this American minister, Mr. Washburn, was flying, as it were for his life, from a savage who knew no law but his own brutal and malignant will and instincts. As regards the immunity to which the house that had been occupied by Mr. Washburn was entitled, and concerning which his excellency quotes from the distinguished Wheaton, it is doubtless true that diplomatic immunities and privileges, under a strict construction of international law, live only during the presence of the minister in the country to which he is sent; but these immunities, the undersigned is persuaded, would not be withheld, either by Brazil or any other civilization, from the residences of ministers which they might have been forced to abandon temporarily upon the bombardment or storming of a capital. And if so much may be assumed in regard to the residences of ministers in capitals taken by bombardment or storm, the undersigned respectfully submits that it was hardly expecting too much of Brazil that, when her forces entered, without opposition, into the capital of Paraguay, they should respect a house which was still technically the legation of the United States, containing its archives, and which the minister had been forced to abandon under circumstances notoriously involving great risk to his life. The undersigned entertains no doubt that his government will duly appreciate the magnanimity of the imperial government in having surrendered to the provisional government of Paraguay large sums of money to which, under the laws of war, it considered itself entitled, as well as the promptness with which it has responded to its appeal in behalf of those Paraguayans who had deposited property at the American legation at Asuncion.

The undersigned accepts the proposition of his excellency to deliver, to the person who may be designated by him, the property taken possession of by the military authorities of Brazil, at the legation of the United States at Asuncion, in conformity with the schedules or reports heretofore referred to, and requests that the delivery may be made to the Hon. John L. Stevens, minister resident of the United States to Paraguay, or to his representative. But the Government of the United States having been informed that Mr. Chapperon, the Italian consul heretofore referred to, asserted to Mr. Worthington, late minister of the United States to the Argentine Confederation, that at the time the city of Asuncion was entered by the Brazilian forces there was still remaining property at the American legation of the value of \$200,000; that Mr. Worthington asserts that the Brazilian authorities at Asuncion acknowledged that they had taken \$30,000, which they offered to pay over to him, but that he declined to receive it, for the reason that it was but a small part of what they had taken; that Mr. John A. Duffield, an American citizen, had property on deposit at the legation of the value of \$15,000; that there was also at the legation a large box marked "archives of the legation of the United States," containing the archives of the former United States consulate at Asuncion, and a large number of books, a flag, letter-press, and other things belonging to the legation, many of the books having "U. S. legation" lettered on the backs of them, being found scattered about the town after the occupation; and that Mr. Washburn himself left personal property of his own at the legation to the value of \$500 or \$600, the undersigned must reserve to his government the right to take such further action in the matter as it may seem proper. The undersigned would still beg of his excellency, Mr. Manoel Francisco Correia, the favor that he will furnish him with two copies of the printed reports or schedules above referred to, and has the honor to renew to his excellency the assurances of his high respect and most distinguished consideration.

ROBERT CLINTON WRIGHT.

No. 16.

Mr. Wright to Mr. Fish.

[Extract.]

No. 185.]

LEGATION OF THE UNITED STATES,
Rio de Janeiro, July 13, 1871. (Received August 22, 1871.)

SIR: In my dispatch No. 178, of the 10th ultimo, I had the honor to report to you what had occurred up to that date in reference to the

claim made upon this government in connection with the alleged sacking of the legation of the United States at Asuncion by troops in the service of the empire of Brazil.

I have since received no communication from this government on the subject. In my said dispatch I ventured the hope that you might judge it best to take no further action in this matter * * * until I should be able to send you the report of the Brazilian minister of foreign affairs. This I have now the honor to do, under separate cover, as well as to transmit herewith a translation which I have made of an interesting memorandum presented by the minister of foreign affairs to the Italian minister. * * *

I have, &c.,

ROBT. CLINTON WRIGHT.

Memorandum accompanying the note of Mr. Manoel Francisco Correia, minister of foreign affairs, to the Italian minister, dated 11th of May, 1871.

[Translation.]

Baron Cavalchini, envoy extraordinary and minister plenipotentiary of His Majesty the King of Italy, at a conference on the 19th of April, 1869, stated, by order of his government, that his government had received from Mr. Chapperon, consul in Paraguay, a report upon the entry of the Brazilian forces into Asuncion and Luque, and consequent outrages embracing the sack of his houses and the consulate itself, and damages to many Italian subjects. Mr. Cavalchini added that his government was obliged to give the greatest attention to this matter, but that it awaited a second report from Mr. Chapperon that it might again address itself to that of Brazil. In a note of the 1st of June, Mr. Cavalchini observed that from the documents annexed to the report of this department in the said year 1869, it is seen that the complaints he had presented at the conference of the 19th of April were not devoid of foundation, as in fact Asuncion and Luque had been sacked. In the first of these cities the Italian consulate was sacked on the 5th of January, notwithstanding it had been occupied by the Brazilian army since the 1st, and in the second the event occurred also on the 5th, upon the entry of a force commanded by Colonel Vasco Alves. Finally, with his note of the 6th of December, Mr. Cavalchini presented, by order of his government, a statement of the damages which the royal consulate and some Italian subjects resident in Asuncion and Luque allege that they have suffered when those cities were occupied by the Brazilian troops.

Before presenting the information and evidence which nullify the complaints made, it is necessary to consider the arguments upon which they are based. Mr. Chapperon, as well in the documents accompanying the said note of the 1st of December, 1869, as in his dispatch of the 6th of February, of the same year, addressed to Marshal Guilherme Xavier de Souza, presents only, in support of his claim, his own assertions. In opposition to these appear statements of the general and other officers of the Brazilian army. In view of two contradictory statements, and without regard to the greater or lesser credit which each one may merit, it becomes necessary for the discovery of the truth to make a vigorous analysis of both. Mr. Chapperon states that the alleged sacking of his houses in Asuncion and Luque took place on the 5th of January.

Mr. de Cuverville, ex-consul of France in Paraguay, who occupied at Luque part of the house in which Mr. Chapperon resided, and who also made accusations against the Brazilian troops similar to those under consideration, disagreeing in an essential point, asserts that the alleged sacking of his house, at the said city, took place on the 6th, and that of his house in the capital on the 7th. In a memorandum of the 2d instant, the imperial government shows that the imputation of Mr. de Cuverville is unfounded, confronting it with notorious facts, and taking into consideration dates cited by the Brazilian generals.

The same system will be pursued in this memorandum. One cannot but feel surprise that he who mentions the date of the alleged sacking at Luque and in the capital should not state, at the same time, why he did not remain there, whither he retired, and what the motive of his not being present at those points in which he could have watched over his own interests and those which had been confided to him, and of his being where there was nothing to protect. "The absence of the consular agents from Asuncion, at a moment when it was about to be subjected to military rule," said the Duke of Caxias, in his reply of the 26th January, 1869, to Mr. de Cuverville, "was

naturally a grave difficulty in the way of the regular and orderly occupation of the enemy's capital, because there was wanting even those who might point out the residences of the said agents, and in general the houses which, containing merchandise or objects of value, might demand special protection."

Mr. Chapperon knew, and argues therefrom, that the Brazilian general, as soon as he entered the place, began to police it, posting guards at certain houses, and taking other measures for the protection of life and property. Nothing more natural, therefore, than that Mr. Chapperon, consul of a friendly nation, should seek military authority, point out his own residence and those of his fellow-countrymen, asking such measures as he might deem best adapted for the protection of those habitations. Thus proceeding, Mr. Chapperon would have maintained the strict neutrality of his government, and, at the same time, would have fulfilled his duty in watching over Italian interests. But that agent only appeared when he thought it opportune to accuse the Brazilian troops of having sacked his residences. And this grave accusation rests alone upon the assertion of the claimant, who did not take a single step for the protection of the interests under his charge. And the responsibility of the Brazilian army for the alleged sacking is deduced precisely from the facts of its generals and officers, immediately upon entering Asuncion, having taken all the precautions humanly possible to protect the houses where it was supposed there might be objects of value. How could the Brazilian chiefs know which were the houses of the consular agents, and of the subjects of neutral nations, and those which contained objects of value and of commerce?

In the entire absence of information from the parties interested, or from any other source, the military authority, when exploring the place, had to post sentinels, not at the houses where they knew articles of value existed, but at those which it seemed might contain them. Of course, under such circumstances, the precautions taken could not be complete, above all considering that the Brazilian army entered a city which was entirely unknown to it, and where no one was to be found to furnish the indispensable information needed to enlighten it as to the protection of neutral property. It was thus arguing, that Baron Cotegipe, in the said conference on the 19th of April, 1869, repelled the responsibility imputed to the Brazilian troops for the alleged sacking, whether this occurred before or after the occupation of the Paraguayan capital. Neither the belligerent who occupies a "place forte" nor he who abandons it to another belligerent can be responsible for the losses which may be suffered by the subjects of neutral nations, during the interval which intervenes between the retiring of one and the regular establishment of the other. It can be understood that during this interval the place may remain at the mercy of unscrupulous adventurers. This was precisely what occurred in Asuncion, abandoned by the Paraguayans a long time before the Brazilian troops entered it. When one of the belligerents occupies any "place forte," or city which may be under a proper administration, little inconvenience can arise from this fact so long as the principles of modern international law shall be observed. But if the occupant, as in the present case, finds everything disorganized and does not meet any one who can enlighten him or furnish the information necessary under such circumstances, irregularities must occur, which will be repeated at all times, in all countries, in all wars, the same causes being present. The Brazilian army cannot, therefore, be responsible for the criminal or reprehensible acts perpetrated whilst it did not control the place, or whilst, after having entered it, it was not possible for the Brazilian generals and officers to carry into effect the measures which they considered indispensable. The first care of the Brazilian generals upon entering Asuncion was to take measures for the protection of property.

It is therefore strange that this worthy procedure, in place of praise, should provoke accusations that these generals should not have prevented depredations committed without their knowledge, and which, moreover, occurred, as everything would induce the belief, before the army had occupied the capital and the city of Luque. He who, in a city, in a normal condition, charges himself with the safe-keeping or deposit of certain property, does not hold the local administration responsible, if by chance such property shall be stolen, he has rather to prove before the tribunals that there was no want of due care on his part, without which he is not relieved of responsibility for the loss of the property, even in the case of *vis major*, "*Depositarius omnis qui dicit se rem amicisse, probare id debet.*" Doneau upon law, 7th Cod. Deposit. Such is also the doctrine laid down in note No. 5 to the art. 1845 of the Italian civil code, with notes by Vincenzo Cattaneo, vol. 2, page 1451. The alleged sacking might have been one of the accidents of *vis major*, of which the cited article 1845 treats; but inquiry must be made if the depositary took measures to guard what was confided to his safe-keeping, or if he abandoned without just cause the places where the deposits existed.

In a dispatch of the 12th February, 1869, published at page 98 of the report of this department of the same year, Colonel José Pereira da Silva, jr., says: "After our battalions had entered, I passed along some of the streets, and observed that in front of the houses which showed the arms of foreign consulates guards had been posted by order of Colonel Hermes Ernesto da Fonseca, who, on the night of the 1st January, had landed at this port, and asking why they were there, the respective commanders replied that

it was to prevent those houses from being violated; afterwards, it was known that from the interior of adjoining houses they had been entered and robbed, but it could not be discovered by whom, because on the said night of the 1st a Paraguayan force was here, and since the said night a multitude of sutlers and adventurers who accompany the expedition by sea and land, were already here." In dispatches of the 17th January, 10th February, and 4th March, published at pages 89, 95, and 104 of the cited report, Colonel Hermes da Fonseca states the precautions he took to police the place as soon as he arrived there, and the difficulties he encountered in the execution of this commission from the total absence of any one who could furnish him with the necessary information. In these dispatches the purpose to repress any attack upon private property is clearly demonstrated.

As regards the measures taken at Luque, Colonel Vasco Alves Pereira states them in the following manner, in a dispatch of the 5th February, published in the said report, at page 91: "His excellency the marquis, marshal and commander-in-chief having ordered me to occupy this point, and that I should carefully examine all the houses in order to ascertain if they contained any material of war, as soon as I received this order I sent Major Ioão Baptista Barreto Seite, assistant deputy adjutant general, attached to this command, to examine the whole settlement, with the view of ascertaining if he could find any houses showing any indication or sign that they belonged to any other nationality than that of the country, and if he should find any such to post guards at them. Upon his return he reported that he had executed my order, and had found no houses of such description. At the same time that I sent Major Barreto Seite, I dispatched a police force of two officers and twenty men to prevent the touching of any article, even belonging to the people of the country." It is thus seen that the Brazilian authorities occupying Asuncion and Luque, notwithstanding they had no knowledge of what existed in those cities, took every precaution for the protection of private property. Mr. Chapperon, who did not appear in time to watch over the property and interests of Italians, nor furnished from the place of his residence any information, holds, nevertheless, the Brazilians responsible for losses which, if they could have been prevented, certainly would have been if the depositary had fulfilled his duty. The Brazilian army enters Asuncion and Luque, and giving another proof of the constant regularity of its procedure, seeks with zeal to preserve the property existing there. As, notwithstanding the precautions taken, it did not succeed in preventing the robbery of all that is alleged to have existed in the said cities, this is laid to its charge. But it would be extraordinary that, precisely on account of these praiseworthy precautions, it should have to answer for crimes or abuses preceding or succeeding these precautions, which may by possibility have been perpetrated. From the argument adduced by the claimant, it is deduced that if the Brazilian army, making no account of the disorganized condition in which it found the administration of those two cities, had left them in the same deplorable state, it would not be responsible for the alleged losses. Its responsibility, therefore, arises exactly from the fact of its having sought to save property which had been abandoned by its owners or depositaries. It is known that the dictator, Lopez, in the war with the allied nations, adopted the system of reducing to complete abandonment every place, city, or settlement which he could no longer defend. The city of Asuncion being abandoned in February, 1868, by order of the dictator, he issued the decree of the 1st December of the same year, ordering the removal of all personal property of every kind and description which might still have been kept there. This determination, like all the orders of Marshal Lopez, would not fail to meet an immediate and complete execution, even on the part of Mr. Chapperon and his countrymen. But if this was not so, as regards that consular agent, why did he abandon his own interests and those which had been confided to him, and did not take any of the precautions required by his character of depositary? Mr. Chapperon cannot exempt himself from the responsibility inherent to every depositary with the simple allegation of *vis major*. It would be necessary to prove that, on his part, there was not the least want of care, but this demonstration has not been and cannot be made.

Such is the doctrine sustained by jurists, and established in decisions by the French courts in the cases of *Sourdis et Boiesy*, and *Coudraye et Cousseau de Montreau*, *Dallor's Rep. de Leg.*, volume 15, pages 459 and 460. Mr. Chapperon does not say when he arrived at Asuncion and Luque, nor explain his absence from those cities where he kept the deposits, but states that the alleged sacking took place on the 5th. Up to the 6th the house had sentinels posted at the door. How, then, could Mr. Chapperon certify himself that the house was sacked on the 5th, without the sentinels having any knowledge of his entrance there, or that of any other person? On the 1st of January the first Brazilian troops (6th brigade) arrived at the capital. Nevertheless, the Italian consul, who had constituted himself the depositary of many private individuals, and who says the property confided to him was deposited in his two houses at Asuncion and Luque, did not request of the Brazilian generals any precaution for the safe keeping of the deposits, when naturally this should have been his first step. Who would presume that Mr. Chapperon, charged with the safe keeping of property,

not residing habitually at Asuncion, and knowing that this city was completely abandoned, would there make a deposit of such property? It is proper still to note that notwithstanding the consul resided habitually in Luque, neither did he remain there from the moment the Paraguayan troops withdrew from it. Mr. Chapperon selected for his residence a place where there were no interests of his nation to defend, where he did not keep the property which had been confided to him; and notwithstanding that this place was but a short distance from the said cities, that consular agent up to the 5th, the day on which he says the alleged sacking occurred, had not been at Asuncion to confer with the Brazilian generals. Thus, while no account is made of the entire abandonment in which Mr. Chapperon left the interests confided to him officially and privately, it is expected, although no request was addressed to it, that the Brazilian army should have constituted itself the guardian of deposits, of which the existence was not even presumed. It could not be conjectured that, known as the condition of Asuncion and Luque was to Mr. Chapperon, he having to keep property in safe keeping, he should have preferred for that purpose those two cities. What indications could induce the Brazilian chiefs to suppose that in the houses abandoned by Mr. Chapperon there existed deposits of valuable property? How could it be presumed that he who possessed three houses in different localities should keep those deposits precisely in that one in which he did not intend to reside?

These considerations show evidently that Mr. Chapperon either did not attach great importance to the deposits existing, as he says, in the two houses at Asuncion and Luque, or did not give due weight to the duties of a depositary, up to the moment of throwing the blame of their disappearance upon the Brazilian army, which could not believe that deposits, of which no one gave it any notice, would be kept in abandoned cities.

If the word of the Italian consul, the only evidence presented by him, has value with his government, that of the Brazilian generals can have no less value with the imperial government, above all considering that the said generals refer to dates and circumstances known, whilst the said consular agent presents simply the fact of the entry of the Brazilian troops. The two cities referred to having been abandoned by the Paraguayans, the Italian consul, who had in both important deposits, withdrew from them and refused to confer with the Duke of Caxias on the 4th, when he fell in with him at S. Lourenço on his march to Asuncion and Luque, thus renouncing the opportunity which was presented to him of requesting from that general measures for the protection of the interests which it was his duty to watch over. These are the terms in which the duke relates this incident: "Upon arriving at the parish of S. Lourenço, where I encamped on the 4th, the commander of the advance posts reported to me that at a few paces from our sentinels there was an isolated house in a field, having a flag flying which he did not know. I immediately ordered one of my aids-de-camp to go to the said house and ascertain by whom it was inhabited, and that if its occupant was a foreigner, he should invite him, in my name, to come and speak with me. The officer to whom I confided this commission returned in half an hour, telling me that the flag was Italian, and that the consul of that nation was there, who said he had fled from Luque to that point, so as not to accompany the Paraguayan forces, which had withdrawn from that point as soon as they heard of the defeat which Marshal Lopez had sustained at Lomas Valentinas; but that he would not leave that house where he was protected by his flag to come to speak with me. I immediately sent the officer back, and again ordered him that he should seek by all friendly means to persuade the consul that he ought to come and have an understanding with me, as he was within a military encampment, and that I might suspect him if he did not. To nothing would Mr. Chapperon assent, and maintained his position, saying that only by force would he come to speak with me."

What circumstances obliged Mr. Chapperon, consul of a friendly nation, to accompany President Lopez, even on the fields of battle, and not to present himself, under the pretext of not having his uniform with him, to the Duke of Caxias, who was about to occupy the cities in which it is alleged the deposits existed? This fact, in the absence of others, would reveal the breach of neutrality on the part of Mr. Chapperon, showing at the same time that his claim is without foundation. "It was my intention," said the Duke of Caxias, in a letter of 1st July, 1869, "to inform myself from the consuls as to the condition of the city which the enemy had abandoned, in order to take precautions for the security of property which might exist there, belonging to private individuals, and especially to the subjects of their nations."

How, in view of the incontestable facts above stated, can Mr. Chapperon, who was not in the capital, fix the date of the alleged sacking of his houses at Asuncion and Luque? Upon what basis does he sustain himself in attributing the sacking to the Brazilian army—in asserting that the act did not occur during the abandonment of those two cities by the Paraguayans? As regards the sacking of the house at Luque, Colonel Vasco Alves Pereira states as follows:

"When I was performing this service I was informed that there was a house which had been broken into in the rear, and that within it existed a shield with the arms of

the consulate of His Majesty the King of Italy, and that in its yard there was a box which had been broken open. I immediately named Major José Lourenço Vieira Souto and two other officers to go to the said house and ascertain what the box contained. He, complying with this order, found the contents of the note, which, in the original, I have the honor to transmit to your excellency, and that in the box there existed some articles of domestic use and some liquor, as well as an iron chest, which had been broken open, and other articles which, being numerous, are not stated. Withal I had a guard posted that nothing might be taken away."

It appears that it is to this dispatch, published at page 91 of the report of this department for 1869, that Baron Cavalchini refers when he asserts that from the documents annexed to that report it was seen that the complaints presented at the conference of the 19th April were not devoid of foundation. Mr. Cavalchini is, however, mistaken; his assertion finds no foundation in that dispatch, nor in any other published in the report, as will be demonstrated.

Mr. Chapperon alleges that his house was robbed on the 5th January, that is, on the day of the entrance of the Brazilian forces. But the said house had already been violated at that time, as was verified simultaneously with the arrival of the imperial army. This is what Colonel Vasco Alves asserts in the cited dispatch.

In another dispatch of the 12th February, published at page 96 of the cited report, the same officer, replying to the accusations of Mr. Chapperon, states as follows:

"I guarantee you that the Italian consul is not able to prove what he has asserted, for when the forces under my command arrived at this point, (Luque,) the house referred to had already been broken open, not by the front, but in the rear, which was inclosed by a brick wall.

"Externally it had no signs of having been broken into, as may still be seen to-day, nor had it any flag or shield of any nation."

After this formal and well-founded denial, Colonel Vasco Alves explains the accusations of Mr. Chapperon in this manner:

"Appearances induce me to believe that the Italian consul desires to impute to the Brazilian soldiers what was doubtless done by the Paraguayans themselves, near whose government he was accredited; but that, in his spite against the Marquis of Caxias, as is seen from his dispatch addressed to the general-in-chief, he seeks a way of indisposing his nation toward the empire by accusing her soldiers of crimes which they did not commit."

It is to be observed that Mr. Chapperon, only on the 6th February, addressed the Brazilian general, reclaiming for acts which he alleges to have occurred on the 5th January. That consular agent explains the delay, saying that he had not yet in his possession his uniform, and, for this reason, was unable to present himself to the Duke of Caxias; but Mr. Chapperon, who, on the 6th February, presented his reclamation, not verbally, but in writing, could have employed at once the same means which he used a month later to denounce the acts of which he complained.

From what Mr. Chapperon says, it would appear that his uniform was neither at the capital nor at Luque nor at Campo Grande, (S. Lourenço.) Where, then, would it be? Nor was it an essential condition, above all, when treating of so urgent a matter, that the consul should present himself in uniform, that the Brazilian general should have heard him, and taken precautions in accordance with the circumstances of the case. It suited Mr. Chapperon to proceed in the manner indicated, as he might avoid the imputation which, as appears from documents hereafter cited, were made against him by the depositors, of only having thrown the blame of the disappearance of those deposits upon the Brazilian forces, when many of the said depositors, who were supposed to be dead, began to appear in Asuncion, and to claim the property confided to his keeping. From the dispatch of Mr. Chapperon, it is seen that he, since February, 1868, had provisionally established the Italian consulate at the house in Luque; from the same dispatch, it is also seen that in Asuncion there was another house where was also the consulate. There were, therefore, two houses—one in the capital and the other in Luque—appropriated to the Italian consulate. In neither of them, however, was Mr. Chapperon before or after the entry of the Brazilian forces; and as he says it was only after the 11th that he could examine the state of his house at Luque, how does he assert that the sacking took place on the 5th? As respects his house in the capital, he affirmed, as has already been stated, that it also was sacked on the 5th.

Nevertheless, many days after the arrival of the Duke of Caxias at the capital—that is, much after the 5th—Mr. Chapperon's secretary, having called upon the general-in-chief, only complained of the sacking of the house at Luque. Of the Italian consul, the Duke of Caxias, in a report of the 1st July, 1869, says: "I only had notice, many days after I was in the capital, through a man who presented himself, and told me he was the secretary of the said consul, and that he came in his behalf to make a verbal complaint to me of the sacking of the consulate of his nation in Luque by the Brazilian troops. I answered this man that the complaint must be addressed to me in writing, that I might act upon it, seeing that up to that date the consul had not presented himself." Mr. Chapperon has said in his cited dispatch that, since February, 1868, he had

established, provisionally, at Luque, the Italian consulate, but he does not state the motive of his procedure. It is important to make this clear, that we may the better recognize the want of foundation for his accusations as regards the sacking in the capital. The Italian consulate was removed at that time to Luque, in consequence of Marshal Lopez having ordered, on the same occasion, the abandonment of the capital, and the establishment of the seat of government at the said city. This being so, could Mr. Chapperon have kept valuable property in Asuncion until January, 1869, considering, above all, that, in December of the preceding year, the dictator had determined that everything should be withdrawn thence? The consulate being in Luque, and Mr. Chapperon residing there, why leave in Asuncion important deposits? All these circumstances, as well as the dates and facts cited by the Brazilian generals, render it evident that the declarations of Mr. Chapperon cannot be admitted as proof in themselves of the complaints made against the Brazilian army. To corroborate the argument adduced, a sketch will be made of the interrogatories, depositions, and reports of persons resident in Paraguay when the facts occurred to which Mr. Chapperon refers. Many of the informants are Italians. Their testimony ought not to be suspected by the Italian government. The complaints of these Italian subjects against Mr. Chapperon, who never reclaimed or interceded with Marshal Lopez when they were the victims of the most iniquitous spoliation and of the most cruel persecutions, will be a new motive why we should not accept the statements of that consular agent. By these same documents, it is fully proven that the reclamation of Mr. Chapperon is tainted with partiality for the cause of President Lopez, in whose interest he served to the last moment, not always respecting the duties of neutrality. The documents here mentioned are appended in *integrum*, and by authentic copies, to the present memorandum, and are accompanied by a schedule signed by the chief clerk of this department.

First document.—Clippings from the Journal *Regeneracion*, in which will be found published grave accusations made by Italian subjects against Mr. Chapperon. From these publications, it will be seen that the Italians do not agree with their consul in imputations made by him to the Brazilian army; they accuse him, on the contrary, with having made away with their deposits.

Second document.—A letter from the Paraguayan citizen, Eduardo Aramburm, owner of the house in which Mr. Chapperon lived at Asuncion. From this letter, it appears that the Italian consul had promised to deliver sundry titles of property and various articles, which the mother of Mr. Aramburm had confided to his keeping.

Third document.—Another letter from Mr. Aramburm, in which he states that he had received the said titles. It is not natural that these titles should have been found, if Mr. Chapperon's house had been sacked.

Fourth document.—Is a long exposition from the French subject, Dorothée Laserre, which relates to the misfortunes endured by foreigners during the dictatorship of Marshal Lopez, without the slightest effort on the part of the consular agents to mitigate these sufferings.

Fifth document.—A deposition of the Italian subjects, Catalina Buero de Achinelli, João Estevão Chiapula, José Penzio, Domingos José Bertholi, and other foreigners. All declare in severe terms, that to Messrs. Chapperon and Cuverville must be attributed the making away of their deposits, and not to the Brazilian troops.

Sixth document.—Information given by D^a Francisca Lopez de Leite Pereira and D. Mariana Dolores Pereira, mother of the Paraguayan bishop, Manuel Antonia Palacias.

These ladies relate the torments through which they and many foreign subjects passed after the dictator determined upon the removal to the interior, of the populations of places he could not defend. The first informant relates the conduct of Mr. Chapperon toward her, when her husband began to be persecuted. In this sad and painful conjuncture, as in others, even when the lives of Italians were in question, Mr. Chapperon showed himself to be the rabid partisan of the dictator.

Seventh document.—A report by name of the foreigners who were barbarously assassinated by order of Marshal Lopez. From this report it will be seen that the number of Italians executed amounts to 29.

Eighth document.—Depositions of thirty foreigners, among whom some Italian subjects. The deposition of the Italians, Dr. Jerónimo Becchi e Domingos Parodi, merit special mention, which relate the cruelties practiced by Lopez against their countrymen, with the connivance of Mr. Chapperon.

Ninth document.—Deposition of the Italian, Antonio Montero, which confirms all that his countrymen had stated in the aforementioned depositions.

Tenth document.—Deposition of Angelo Benitz, sergeant of marines, and employed in the commissariat of the dictator. He declares that at Angostura there was shipped on board the Italian gun-boat "Veloce," a sum of money destined for the agent of Lopez in France, Gregorio Benitez.

Eleventh document.—Deposition of other residents in Paraguay, which confirms the preceding statements.

Twelfth document.—A letter in which D. Rosalia Domeg Concepcion Decond claims deposits from the Italian consul; and a letter from the latter acknowledging the de-

posit, and stating that his house was sacked in October, 1868, much before the entry of the Brazilian forces.

Thirteenth document.—Declarations of Madame Laserre, from which it is seen that the houses in Asuncion were forced by the Paraguayan authorities immediately after the abandonment of the said capital in February, 1868.

Fourteenth document.—Report made by the Duke of Caxias, on the 1st July, 1869. This report is accompanied by two letters, written by Luiz Caminos, minister of the dictator.

From these documents and others mentioned in the schedule annexed, which, as has already been stated, is signed by the chief clerk of this department, and an abstract of which is not made, that this memorandum may not be too much extended, it is seen that Mr. Chapperon is accused by his countrymen of not having respected the neutrality which his government had imposed upon itself in the war with Paraguay, of having served as a docile instrument in the hands of President Lopez and Madame Lynch, in the persecutions and spoliations of which they were the victims; of not having opposed the least resistance to the execution of many Italians, being declared responsible for all the calamities which they suffered in Paraguay. It is his compatriots who dispute the sacking, by him attributed to the Brazilian troops.

Among the Italians interrogated were some who had deposited property at the consulate.

In one of the documents annexed to the note of Mr. Cavalchini of the 6th December, 1869, are read the names of thirty-nine Italians, who, according to the statement of Mr. Chapperon, suffered losses by the Brazilian forces. The imperial government ordered an inquest in reference to the complaints set forth in that document. The result of this inquest confirms all that has been stated in this memorandum, as well as the replies of the commander-in-chief of the Brazilian forces and of the imperial government. Of the Italians referred to, some have died and others were executed after having suffered unheard-of tortures. It is impossible to discover, notwithstanding the efforts made, the fate of many; but those who escaped the wrath of the dictator were interrogated by the Brazilian authorities, and their depositions are annexed to the present memorandum.

Document No. 22 shows the Italians deceased, those whose fate is unknown, and those who deposited.

To make evident the irregularity with which the statement under consideration was prepared, when other proofs were wanting, the deposition of the Italian, Catilina Buero de Achinelli, would suffice. She states: "That the withdrawal of families from the city having been decreed, and she, the informant, finding herself much embarrassed in regard to the transportation of her property, as her mother, being very old, could not live much longer, she applied to the consul to take charge of a trunk for her; that the informant not being able, however, to go beyond Luque, where she afterward met the said consul, she received again from him the said trunk intact, paying only as a fee for that deposit the sum of ninety-seven dollars and six reales and a half, more or less, for which the consul did not hesitate to pass a receipt." Nevertheless this lady figures in the aforesaid statement as a claimant for \$2,270 for deposits made at the consulate on the 22d February, 1868. Giacomo Columbino and José Ponzo, also mentioned as claimants, deny the allegations of Mr. Chapperon, who is designated by them as the author of all the misfortunes of their compatriots. The statements of these three Italian subjects form part of the document No. 5. In another statement, also annexed to the said note of the 6th December, Mrs. Suzanna Aramburm is presented as a claimant. From document No. 3, it will be seen that this lady does not impute to the Brazilian army the disappearance of the articles deposited by her at the Italian consulate. In fine, there is not one single evidence in support of Mr. Chapperon; while the Brazilian government presents not only incontestable dates and facts, but also valid documents which destroy them. From the information given by all the Italian subjects found at Asuncion, it is shown that Mr. Chapperon never gave the least protection to his countrymen, who, on the contrary, bring against him grave accusations even as to his conduct with reference to the property which was confided to him. Very different was the conduct of the Brazilian army. Being fortunate enough to rescue from the power of the dictator some Italians, it furnished them clothing, food, &c. Nevertheless the blame of having sacked the property of Italian subjects is thrown upon the liberating army to so many unfortunates, and which, as is shown by documents Nos. 15 and 16, delivered to the provisional government of Paraguay property taken from the enemy on battle-fields and in fortresses. What more generous or more noble conduct could have practiced the army of the most civilized nation, under like circumstances?

On the occasions of the abandonment of Asuncion and Luque, the Italians residing in those cities suffered great outrages; and what defense had they? The statements of the Italian subjects, who escaped from the hands of the dictator, give a sad, very sad answer to this question. It must not be forgotten that large sums which might have been considered, under consular right, as prize to the victor, were scrupulously delivered to the provisional government; and that all claims for damages, alleged and proven, in consequence of the operations of the Brazilian army, were immediately

paid by the respective chiefs, who always made it their pride not to give cause for acts of their subordinates, for any the most insignificant representation.

When the enemy by treachery invaded the Brazilian territory, he devastated everything, sacked everything, sacrificed everybody, respecting neither children nor young girls, neither the old, the sick, nor the clergy. The Brazilians, from the moment they trod the enemy's soil, protected all they encountered without respect to nationality. Of this noble proceeding, which cannot be contested, the empire is proud. After the most bloody battles, the first care of the Brazilian generals was to succor those who were dying from destitution, from cruelty and torture, the narrative of which causes horror and surprise; the solicitude of the Brazilians in this human endeavor being attested by Italian subjects and other foreigners.

The narrative of the misfortunes of the Italians resident in Paraguay, deprived of all protection until the arrival of the Brazilian army at the places of their sufferings, must necessarily interest the government of His Majesty the King of Italy.

The government of Brazil, full of confidence in the impartiality and rectitude of that of Italy, awaits the judgment of this, after the reading of the present memorandum and the examination of the documents annexed.

MANOEL FRANCISCO CORREIA.

RIO DE JANEIRO, *May 11, 1871.*

No. 17.

Mr. Partridge to Mr. Fish.

No. 5.]

UNITED STATES LEGATION,

Rio de Janeiro, August 26, 1871. (Received Sept. 21.)

SIR: Inviting your reference, in connection herewith, to Mr. Wright's Nos. 164, 167, 174, 178, and 185, I beg to send you, annexed hereto, a translation of a note received from the foreign office here, dated July 22, 1871, in reply to Mr. Wright's last note to this government, of the 3d of June, in reference to the property found in the house (No. 95 Calle de Justicia) at Asuncion, and which had been occupied by the United States minister to Paraguay.

It will be seen that the Brazilian government, while declining to admit responsibility for the articles stated to have been left in that house, of which they had no knowledge until their troops entered the place, and their officers had a few days afterward taken account thereof, nevertheless renew their offer, previously made in the note of the 31st of May, to restore the box (labeled "Legation of the United States") as soon as found, "together with the other objects found in that house."

Mr. Correia has since informed me, in conversation, that the box has been found; but he added he could not say at that moment what "other objects" were embraced in that term, or what sum of money would be included, since it appeared from other proofs that the money and jewels found there (as set forth in the official lists, of which a translation is annexed and marked B) belonged to those who could have no right to reclaim them from this government.

I presume, however, from the last paragraphs of the annexed note, that they will surrender everything now existing here, and which they admit, from their list, was found in that house.

I will in a few days request Mr. Correia to deliver to the consul, for me, all such property; and will send such books, boxes, papers, &c., among them, as belong to the United States legation in Paraguay, to Mr. Stevens at Montevideo, by the Ticonderoga, or the first vessel which goes there.

I am, &c.,

JAMES R. PARTRIDGE.

B.

Translation of the official report of the Brazilian commander-in-chief and of the officers who examined the trunks, &c., found in the house in Asuncion, Paraguay, on 6th-9th January, 1869. From "Relatorio" of the minister of foreign affairs to 14th legislation, 14th May, 1869, p. 106, *et seq.*, No. 67. (Nos. 1-5 inclusive.)

[No. 67.]

Report of the commander-in-chief of all the Brazilian forces in operation in Paraguay, to the special mission on service in the republics of the Plate.

HEADQUARTERS AT ASUNCION, *March 1, 1869.*

MOST ILLUSTRIOUS AND EXCELLENT SIR: I have the honor to place in the hands of your excellency copies of the five reports presenting the results of the commission charged with the duty of collecting and making inventories of the money and jewels which Colonel Hermes Ernesto de Fonseca had in his keeping. I avail myself of the occasion to assure your excellency of my high esteem and consideration.

God guard your excellency, most illustrious and excellent sir.

GUILHERME XAVIER DE SOUZA,
Then Marquis, now, 1871, Duke de Caxias, (Cashecas.)

To the Councillor **JOSÉ MARIA DA SILVA PARANHOS,**
Now Viscount de Rio Branco, President of the Council, and Prime Minister, 1871.

[Documents referred to in the foregoing note.]

No. 1.

Report of what was found in the house No. 95 of Rua da Justica, in Asuncion.

On the 6th of January, 1869, in this city of Asuncion, at the government palace of the republic of Paraguay, were present the commission, composed of Colonel Hermes Ernesto de Fonseca, Lieutenant Colonels Antonio Joaquim Bacellar and Joaquim Cavalcanti de Albuquerque Bello, Majors Joaquim Antonio Dias, Pedro Alves de Alencar, Manuel Antonio Rodrigues, and José Libanio de Souza, charged with the delivery of money and jewels found in the house No. 95 of Rua da Justica.

There were also present the commission appointed by his excellency the marshal of the army, Marques de Caxias, embracing intendant of the departments of finance João Baptista de Figueiredo, chief of the fiscal department, Sebastião Marques de Souza, of the pay department, Joaquim Antonio Varques, major assistant to chief of staff Luiz Eduardo de Carvalho, and the first officer to the intendant Frederico Augusta de Menezes Lara, charged with the receiving of the said money and jewels. Proceeding to an examination they found in two trunks the value of 29,612\$780 in the following pieces:

12,859 silver patacas, valued at.....	2\$000 reis each.
1,235 silver coins, (5 francs,) valued at.....	1\$800 reis each.
774 Bolivian pieces, valued at.....	1\$600 reis each.
33 coins, valued at.....	1\$000 reis each.
15 coins, valued at.....	0\$500 reis each.
260 coins, valued at.....	0\$400 reis each.
243 coins, valued at.....	0\$200 reis each.
32 Bolivian coin, valued at.....	0\$800 reis each.
1 dollar coin, valued at.....	1\$900 reis each.
1 coin, valued at.....	1\$280 reis each.

and Brazilian silver coin to the amount of 211\$500 reis—all of which was turned into the military chest of the army, as well as the jewels which still remain there deposited; and inventories will be made of them as of any other articles which may be hereafter found.

The work of the day being ended, I, Frederico de Menezes Lara, first officer to the intendant of finance, serving as secretary of the commission, have framed this present report, signed by the members of the above-mentioned commissions.

Colonel HERMES ERNESTO DA FONSECA.

Intendant JOÃO BAPTISTA DA FIGUEIREDO.

Lieutenant Colonel ANTONIO JOAQUIM BACELLAR.

Chief of Fiscal Department SEBASTIAO MARQUES DE SOUZA.

Chief of Pay Department JOAQUIM ANTONIO VARQUES.

Major and Assistant to Chief of Staff LUIZ EDUARDO DE CARVALHO.

Major PEDRO ALVES DE ALENCAR.

Major JOAQUIM ANTONIO DIAS.

Major JOSÉ LIBANIO DE SOUZA.

Major MANUEL ANTONIO RODRIGUES.

First Officer FREDERICO AUGUSTA DE MENEZES LARA.

A true copy:

JOAQUIM FELICISSIMO DE REGO BANOS.

No. 2.

Report of an examination made of some packages and a chest found in the house No. 95 of Rua da Justica, in Asuncion.

On the 7th of January, 1869, in the city of Asuncion, in the house No. 95 of Rua da Justica, were present the commission, embracing the following officers: Colonel Hermes Ernesto da Fonseca, Lieutenant Colonel Antonio Joaquim Bacellar, Lieutenant Colonel Joaquim Calvacanti de Albuquerque Bella, Major Joaquim Antonio Dias, Major Pedro Alves de Alencar, Major Manuel Antonio Rodrigues, Major José Libanio de Souza, charged with the delivery of money and jewels found in the said house, to the commission appointed by his excellency the marshal of the army, Marques de Caxias, which commission also was present, and composed of the following: Intendant of the department of finance, João Baptista de Figueiredo; chief of the fiscal department, Sebastiao Marqués de Souza; officer of the pay department, Joaquim Antonio Vasques; major and assistant to chief of staff, Luiz Eduardo de Carvalho; first officer to the intendant, Frederico Augusta de Menezes Lara. Proceeding to an examination of some packages and a chest that were in the house mentioned above, they found money and jewels, all of which were placed in a box which was completely sealed, to be opened on the following day. The door of entrance to the house was also sealed, it being too late to make an inventory. In view of which, I, Frederico de Menezes Lara, first officer to the intendant of finance, serving as secretary of the commission, have framed this present report, signed by the members of the above-mentioned commissions.

(Here follow the names and titles as subscribed to No. 1.)

No. 3.

Report of the examination and counting of the money found in the house No. 95 of Rua da Justica, in Asuncion.

On the 8th of January, 1869, in the city of Asuncion, met in the house No. 95 Rua da Justica, the commissioners, embracing Colonel Hermes Ernesto da Fonseca, Lieutenant Colonel Antonio Joaquim Bacellar, Lieutenant Colonel Joaquim Cavalcanti de Albuquerque Bella, Major Joaquim Antonio Dias, Major Pedro Alves de Alencar, Major Manuel Antonio Rodrigues, Major José Libanio de Souza, charged with the delivery of the money, jewels, and other articles of value, which were yesterday and to-day found in all the packages and chests that were in the above-mentioned house; and proceeding to count the money in the presence of the commission appointed by his excellency, the marshal of the army, Marques de Caxias, composed of the intendant of the financial departments, João Baptista de Figueiredo; chief of the fiscal department, Sebastiao Marqués de Souza; officer of the pay department, Joaquim Antonio Vasques; major and assistant to chief of staff, Luiz Eduardo de Carvalho; first officer to the intendant, Frederico Augusta de Menezes Lara; the whole amounted to the sum of 8,861\$120, as follows:

114 gold ounces, valued at.....	30\$000 each.
4 Brazilian gold pieces, valued at	20\$000 each.
3 sterling pounds, valued at	8\$590 each.
2 twenty franc pieces, valued at	7\$200 each.
3 quarter ounces, valued at.....	7\$500 each.
1 Oitava, valued at	3\$705 each.
3 gold patacoes, valued at	1\$900 each.
1,904 silver patacoes, valued at.....	2\$000 each.
144 silver coins, (5 francs) valued at.....	1\$800 each.
161½ Brazilian pieces, valued at	1\$600 each.
29 coins, valued at	1\$000 each.
6 coins, valued at	0\$500 each.
721 coins, valued at	0\$400 each.
1,923 coins, valued at	0\$200 each.
25 coins, valued at.....	0\$100 each.
Also Brazilian notes to the value of.....	255\$000

Having delivered this money to the pay department of the army, as well as a chest closed, with the name of Antonio Nin Reyes marked upon it with chalk, to be opened to-morrow, and also a box, properly sealed, containing jewels and other articles of value, which are deposited in the same department, and of which an inventory is yet to be made; and nothing more having been found in the above-mentioned house, I, Frederico de Menezes Lara, first officer to the intendant of finance, serving as secretary of the commission, have framed this present report, signed by the members of the above-mentioned commission.

(Here follow the names and titles as subscribed to No. 1.)

No. 4.

Report of the delivery of money into the pay department of the army.

On the 9th of January, 1869, in the city of Asuncion, met at the pay department of the army the commission, embracing Colonel Hermes Ernesto da Fonseca, Lieutenant Colonel Antonio Joaquim Bacellar, Lieutenant Colonel Joaquim Cavalcanti de Albuquerque Bello, Major Joaquim Antonio Dias, Major Pedro Alves da Alencar, Major Manuel Antonio Rodrigues, Major José Libanio de Souza, to assist at the opening of the chest deposited yesterday in that department, and to deliver the money which may be therein found, to the commission which was also present, appointed by his excellency, marshal of the army, Marques de Caxias, and composed of the intendant of the department of finance, João Baptista de Figueiredo; chief of the fiscal department, Sebastiao Marquez de Souza; officer of the pay department, Joaquim Antonio Varques; major and assistant to chief of staff, Luiz Eduardo de Carvalho; first officer to the intendant, Frederico Augusta Menezes Lara.

The said chest having been opened, there was found a sack containing the amount of 502,800, as follows: One hundred and ninety-six silver patacos, valued at 2,800 each; forty-two silver coins, (5-francs,) valued at 1,800 each; twenty-two Bolivian pieces, valued at 1,600 each, all of which was turned over to the pay department; and I, Frederico de Menezes Lara, first officer to the intendant of finance, serving as secretary of the commission, have framed the present report, signed by the members of the above-mentioned commission.

(Here follow the names and titles as subscribed to No. 1.)

No. 5.

Report of the delivery of jewels and money found in the previously mentioned house.

On the 11th of January, 1869, in the city of Asuncion, at the pay department of the army, met Colonel Hermes Ernesto da Fonseca; Intendant João Baptista de Figueiredo; Lieutenant Colonel Antonio Joaquim Bacellar; chief of fiscal department, Joaquim Antonio Vasques; major and assistant to chief of staff, Luiz Eduardo de Carvalho; Major Pedro Alves da Alencar; Major Joaquim Antonio Dias; Major José Libanio de Souza; Major Manuel Antonio Rodrigues; first officer, Frederico Augusta de Menezes Lara, members of a commission charged with the delivery of the jewels, and other articles of value found in the house No. 95 of Rua de Justica, and which on the 8th instant were deposited in that department in a box closed and sealed, and of the contents of which an inventory was to be subsequently made.

The said box was to-day opened in the presence of the above-mentioned commission, as well as the commission appointed by his excellency, marshal of the army, Marques de Caxias, composed of the intendant of the departments of finance, João Baptista de Figueiredo; chief of the fiscal department, Sebastiao Marquez de Souza; officer of the pay department, Joaquim Antonio Vasques; major and assistant to chief of staff, Luiz Eduardo de Carvalho; first officer to the intendant, Frederico Augusta de Menezes Lara, to receive the said jewels and other articles, of which the following inventory was taken:

60 pounds of silver.
1 pair of reins, silver-mounted.
1 headstall, silver-mounted.
1 inkstand.
1 sand-box, silver-mounted.
1 large cup, with silver ornaments.
7 small cups, with silver ornaments.
2 pairs of silver spurs.
3 whip-handles, silver-mounted.
1 small silver coal-holder, (for lighting cigars,) [fogareiro] with wooden handle.
1 wooden mug, with silver ornaments.
4 gold watches, broken, numbered respectively 85,966, 2,914, 2,375, 1,176.
3 small gold watches, with open dials.
1 gold bracelet.
1 pair of gold ear-rings.
2 combs, with gold ornaments.
1 ordinary silver watch, broken.
1 box, with gold pin and ear-rings, enameled.
2 pins, with brilliants, one having ten stones.

1 pair of ear-rings, with brilliants, broken.
3 rings, with brilliants, one being broken.
10 gold bracelets, French, of 14 carats, two of coral.
3 gold pins, of different kinds, French, of 14 carats.
2 watch-chains, of different kinds, French, of 14 carats.
1 golden dove, enameled, with brilliants.
16 gold rings, of different kinds, French, of 14 carats.
4 gold crosses, of different kinds, French, of 14 carats.
1 gold cross, of enamel.
1 gold heart, of coral, French, of 14 carats.
1 gold heart, of enamel.
20 pairs of ear-rings, of different kinds, French, some having ordinary stones.
2 small gold lockets, for miniatures and hair.
2 small gold buttons, of 14 carats, and different articles of gold of 18 carats, weighing 20½ ounces.

Having taken an inventory of everything the box contained, it was sealed up anew and placed in the pay department, subject to the final order of his excellency, marshal of the army, Marques de Caxias, and I, Frederico de Menzes Lara, first officer to the intendant of finances, serving as secretary of the commission, have framed the present report, signed by the members of the above-mentioned commission.

(Here follow the names and titles as subscribed to No. 1.)

No. 18.

Mr. Partridge to Mr. Fish.

No. 7.]

UNITED STATES LEGATION,
Rio de Janeiro, September 8, 1871. (Received October 7.)

SIR: I beg to inform you that the United States sloop-of-war Portsmouth, Commander A. A. Semmes, left this port on the 5th of September, bound for home, (New York,) at the expiration of her term of service on this station. She had on board four families, (United States citizens,) who, under the instructions of the State and Navy Departments, were allowed to return in her to the United States, in all twenty-four persons.

There were others, quite a number, self-exiled from the Southern States, now in the province of San Paulo, (south of this,) where I understand there are still between three and four hundred in all, very many of whom are exceedingly anxious to avail themselves of the generosity of our Government, which they are now glad to call their Government also, to return to the home they left. Their experience has convinced them of their mistake, and few things have caused greater admiration in Brazil, where those exiles formerly loudly boasted of the reasons which brought them here, than the generosity and magnanimity of this present Administration, which, upon their repentance and solicitation, gives them free passage home again, even on vessels of war.

The Portsmouth did not delay long enough in this port to enable many of those persons, for whom she still had room, to join her here in time.

It is my intention shortly to make a visit to the province of San Paulo, (as my predecessor, Mr. Blow, did,) after which I will be able to report to you the condition and disposition of those who still remain and are desirous to return.

In the mean time it will be gratifying to me to receive your instructions as to whether any arrangements can be made for chartering a vessel for, or paying passage to the United States, of such among them as meet the conditions of the Government's generosity, so that such now in great need may be carried back before the expiration of the flag-ship's cruise, (some months hence,) and which would probably not have accommodations for any considerable number.

The Ticonderoga, Commander O. C. Badger, proceeded on the same day (5th) to the river Plate, and the flag-ship Lancaster is still in this harbor, where Rear-Admiral Lanman remained, at my request, so as to participate with the other vessels of war in salutes, &c., on the 7th of September, the anniversary of Brazilian independence.

I have enjoyed the pleasantest intercourse with the admiral and the officers of the fleet.

I have, &c.,

JAMES R. PARTRIDGE.

CHILI.

No. 19.

Mr. Root to Mr. Fish.

No. 16.]

UNITED STATES LEGATION,
Santiago de Chili, February 15, 1871. (Received March 16.)

SIR: I have the honor to report that on the 19th of January last, accompanied by General J. C. Caldwell, United States consul at Valparaiso, and several other American gentlemen, I proceeded from Santiago to Llaillai by railroad, thence by stage, passing through San Felipe to Santa Rosa de los Andes, where we arrived the same night. This city being near the mountains, we there prepared for our journey, which we commenced early on the morning of the 22d. The third day we passed the *cumbre*, or highest point, called the *Nspullata Pass*, at an elevation of 12,656 feet above the sea. The summit was passed at 10 a. m., thermometer standing 40° F.; our barometer, a small pocket one, proved worthless when above 9,000 feet. The *cumbre* of this pass is between two and three hundred feet in length, and the same in width. The immediate ascent and descent are comparatively easy. The wind, which later in the day is very strong, during the forenoon is quite bearable. The view from this point is truly grand and sublime. From either side, looking north or south, the highest peaks of the Andes, with their pinnacles veiled in mantles of eternal snow, are in full view, and, as seen rising from almost fathomless abysses, gorges, cañons, and lesser heights, to their homes among the clouds, present a picture of sublimity and awful grandeur never to be forgotten by the beholder. This night we rested at the "Puerta del Inca," a natural bridge nearly a hundred feet from the water of the Rio de los Cuevas, and is one hundred and fifty feet wide and three hundred feet in length. Beneath this bridge, on one side, are several warm baths of a saline character, possessed of many medicinal virtues, and except for the difficulty of reaching would be much frequented. Their uniform temperature, by my thermometer, was 92 degrees. Beautiful stalactite formations completely covered the under side of this bridge. The appearance of the mountains on the east side of the pass is in marked contrast with that of the west. The former presents a sharp, angular, hard, unyielding, and undecaying surface. The rocky points seem to stand out in bold relief, bidding defiance to time or the action of all the elements of nature, while the moment the *cumbre* is passed a distinct change is observed. The whole face of the mountain scenery seems mellowed and softened. The highest peaks discernible beneath the snow seem crumbling and fast going through the process of disintegration, being thus prepared for the vegetation of the valleys and vast plains below and beyond, toward which every shower and melting snow carries a bountiful supply. Nothing of especial interest occurred until our arrival in the ill-fated city of Mendoza, in the Argentine Republic, situated about thirty miles from the base of the Cordilleras, on the vast plains or pampas, which stretch hundreds of miles to the east. This place we reached the eighth day.

Mendoza was destroyed by an earthquake the 20th of March, 1861, between 8 and 9 in the evening. Having been kindly furnished with letters of introduction to some of the principal men here, as well as elsewhere on our route, we were enabled to obtain correct information touching the sad history of this city. The "tremble," or "shake," lasted

from three to five minutes, during which time the town was completely destroyed; not a house was left standing; fifteen thousand persons, out of a population of twenty thousand inhabitants, were instantly buried beneath the ruins of the fallen buildings. For the next two years most of the living went either into the country or some other town or city. After this period, many of the old inhabitants commenced to return and to rebuild, and were rapidly joined by others, so that now Mendoza is a thriving place of nearly or quite twelve thousand inhabitants. The new town is mainly built adjacent to the old one, which still lies in crumbling ruins, with only here and there an old residence rebuilt. Hundreds of skulls and other human bones, especially in the neighborhood of churches, lie scattered around in careless and apparently unnoticed condition. Those in the vicinity of churches were evidently the remains of women and children, who at that hour were attending vespers. The men in these Catholic countries, I have noticed, are not as punctilious in their observances of church demands as the females. Most of the buildings in the city were made of adobe. The oldest church, (the church of San Francisco,) built by the Spaniards, was one of the strongest pieces of brick masonry I have ever seen, with walls from ten to fifteen feet thick, yet this edifice was shattered as though made of the most brittle material. Perhaps, as part excuse for allowing such an apparent neglect of the dead to appear, it should be remembered that the dead outnumbered the living as three to one. Many who were not instantly killed were burned alive by fires which raged in different parts of the city. Though multitudes have been extricated and buried, it is supposed that at the present time there are about six thousand bodies lying just as the sad catastrophe overtook them. Perhaps I may be pardoned for suggesting a theory for the destruction of this place, and if true it may throw light upon similarly situated cities which have been destroyed. Mendoza, from all information obtained, was the center or nearly so of this earthquake; a few miles from the city upon a level plain, at the time of the disaster, the earth opened with great power and violence, and threw each way, in a lateral direction, for the distance of several hundred feet, immense quantities of earth, making an elevation of the surface thereof at the present time nearly thirty feet high. At the same time large quantities of water were thrown forth, and from that to the present time about fifty springs have been in lively operation, from which flows a large supply of cool and slightly mineral water, so much so, that several small buildings have been erected near, and this place has become a great resort for public bathing. My theory is that a reservoir of water, far up the Andes, suddenly opened into one of the subterranean water-courses leading from those vast heights, beneath the surface of the earth, under the plains, and in the vicinity of Mendoza, and that by mere hydraulic pressure the earth was forced up, and when this pressure was relieved, as was done when the earth was burst asunder and the earth and water poured forth where the springs now are, the earth fell back to its original position, causing the terrible shock with its consequences. In this view a similar "shake" may occur at any time to any place situated on a vast plain at the base of exceedingly high mountains. I found that the force of the shock gradually diminished in every direction from the vicinity of these springs. Neither fire nor smoke was known to issue from the earth in any direction at this time. The above ideas have at least the merit of pure originality with me, never having known of their being suggested previously from any quarter, but with all these facts before me I am fully satisfied of the correctness of my theory.

After two days in Mendoza, we commenced our return by the Potillo Pass, situated about sixty miles south of the Nspullata route, on reaching which we marched two days across the pampas, often being reminded of the prairies of the West, though far from being as fertile. Much of the distance was quite sandy and barren. A few guanacas and ostriches were seen, and some smaller game. More rain falls on the eastern than the western slope of the Andes, so that there is considerable verdure in places even without irrigation, which is rarely true of the west side of the mountains. On this route there are two distinct ridges or passes, with a valley between, occupying a day's march. Both of these passes or cumbres are much higher than the Nspullata cumbre, and have a faint resemblance thereto, each, however, being much narrower. I attempted to light a fire for the purpose of ascertaining at what degrees water would boil at the summit, but was doomed to utter failure, notwithstanding I had all the necessary appliances, as I supposed. My matches would only fuse an instant and then go out. The driest paper and pine shavings would not ignite. The brandy of one of the company would not burn. Unfortunately my alcohol lamp I had left behind. The rarefied air was not sufficiently filled with oxygen for my experiment. The thermometer at 10 a. m. stood at 31°. The next day, after passing through the eastern portion of the valley, we passed the west Potillo Pass at 7 a. m. This pass is much higher than the latter; thermometer 29°. A frosty mist encircled us as we passed the cumbre. From the last Potillo we obtained a good view of Tapungato, lying a few miles north of us, 22,450 feet high, the highest mountain in the Western hemisphere. Aconcagua, 22,296 feet high and sixty miles northward, is not visible on this route. The west Potillo is the highest of these passes, being nearly fifteen thousand feet above the sea. All these summits should be passed as early in the day as possible for fear of the wind, which toward night is often very strong and dangerous. Soon after passing our last cumbre a violent snow-storm commenced, which continued, as we subsequently learned, for several days, making the summit impassable for a time, and preventing several thousand head of cattle from continuing their march from the Argentine Republic to Chili, thereby causing great loss of stock; vast numbers of these starved and frozen animals becoming food for the thousands of huge condors that seem to be alone the living inhabitants of these lofty solitudes, among, in, and above the clouds. I ought to state that in very many places on both routes we saw sure indications of great mineral wealth, and several copper and silver mines were in successful operation. Just three weeks from our departure we safely arrived in Santiago. On our entire route, though avoiding as much as possible any appearance of display or official show, we were treated with marked kindness and distinguished courtesy, and everywhere found the United States recognized as the great nation of the world, whose sympathies were especially extended to all sister republics.

I beg pardon for so long a report which, however, might easily have been greatly extended, with perhaps more interesting details than those here hurriedly given.

I have, &c.,

J. P. ROOT.

CHINA.

No. 20.

Mr. Low to Mr. Fish.

No. 35.]

LEGATION OF THE UNITED STATES,
Peking, October 25, 1870. (Received December 28.)

SIR: In my No. 31, of the 26th of September, you were informed that the chargé d'affaires of France had called his colleagues together and made known to them the punishment which this government proposed to inflict upon those who were engaged in the massacre at Tien-tsin. He also stated that, at the time the communication was made he was asked, in rather an imperious manner, if the proposition was satisfactory. His reply, as stated to his colleagues, was that in the present disturbed condition of his country he did not feel at liberty to speak for the government of France on so grave a matter, and that, as the punishment of the guilty had such a direct bearing upon the security of all foreign residents, it seemed in every respect desirable for him to assemble his colleagues and solicit their opinions before making any reply to the question submitted.

The manner in which the propositions were made, and the fact that M. Rochechouart had unwisely, as I thought, made known to the officials in advance his intention of submitting the question to his colleagues, left no other course open for them to pursue, except to express their approval or disapproval without qualification or explanation. In view of these considerations it was deemed advisable for the representatives of Great Britain, Russia, Prussia, and the United States to address a joint note to Prince Kung, expressing their dissent from the conclusions to which the government had arrived as to the proper measure of punishment which was necessary to inflict for such a crime, leaving it to the Chinese to decide what, if any, further action it might be proper and expedient for them to take. A copy of the joint note is herewith inclosed, (inclosure A.)

To this Prince Kung replied, (inclosure B,) intimating that the investigation and trials were closed, and that as soon as the sentences were formally pronounced, the result would be officially communicated to all the legations. He also begged to assure us that ample protection would be afforded to all foreign residents.

The two imperial decrees (inclosures C and D,) confirming the sentences of the criminals and ordering them to be carried into effect immediately, and my reply acknowledging their receipt, (inclosure E,) also accompany this.

As a measure of precaution against a recurrence of trouble at Tientsin during the approaching winter, the governor general has been ordered by the Emperor (inclosure F) to remain there until further orders; and I learn, unofficially, of the contemplated removal of the capital of the province from Paoting-fu to Tien-tsin, so that the chief magistrate of the province will be more accessible in case of real or apprehended trouble, and thus be able to preserve a better understanding between natives and foreigners.

The report of the acting French consul at Tien-tsin, of which the chargé d'affaires has kindly allowed me to take a copy, (inclosure G,) will furnish you with full particulars of the execution of sixteen criminals, and the state of feeling resulting from it.

He also gives his opinion as to the effect which these convictions and executions are likely to produce upon the people generally, which, I regret to say, differ widely from what I had hoped.

I trust the effect will be better than he anticipates. But whatever may be the result in Tientsin and in its immediate vicinity, I am persuaded that the knowledge that these criminals have been punished will add to the security of foreigners in places more remote from the scene of their trial and execution.

The remaining four under sentence of death were convicted of the murder of three Russians. Their execution is, I am informed, delayed at the special request of the Russian consul general, in the hope that their testimony may be useful in the conviction of others charged with complicity in the massacre.

A careful review of all that has transpired in connection with this affair—the timidity and vacillation of the officials; the delay and uncertainty attending the arrest and trial of the offenders; the fear of trouble and riotous proceedings at their execution; the extreme caution exercised in the preparation for and the secrecy of the execution—illustrates most painfully the weakness of the government when called upon to perform a duty in opposition to public opinion, and enables somewhat of a just estimate to be made of the embarrassments which surround the prince and his associates in their dealings with foreign nations.

The natural result of this is, I am led to view their action, or rather inaction, with more leniency than those do who know less of the difficulties with which the members of the Foreign Office have to contend.

Chunghow, who was some time since appointed ambassador to France, for the purpose of offering a suitable apology, and affording such reparation as might be reasonably demanded, is making preparations for his departure. Before he leaves I expect to be placed in possession of a copy of his instructions and the substance of the propositions which he will be authorized to make to the government of France in satisfaction for the outrages committed at Tien-tsin, which will be forwarded in a future dispatch.

I have, &c.,

FREDERICK F. LOW.

A.

PEKING, September 24, 1870.

SIR: The undersigned, representatives of the United States, Great Britain, Prussia, and Russia, have the honor to inform your Imperial Highness that M. de Rochechouart, as he sent yesterday to the Yamen to state was his intention, has assembled us, his colleagues, for the purpose of communicating to us the measures of punishment which your Imperial Highness has apprised him the government is about to award to the mandarins and people engaged in or connected with massacre at Tientsin.

We conceive it to be our duty without loss of time to state to your Imperial Highness that we regard the decision arrived at, after three months' delay, as utterly unsatisfactory, whether with reference to the atrocity of the 21st June in particular, or the general question of security in which all foreigners in China are interested.

The undersigned seize with eagerness this occasion to renew to your Imperial Highness the assurances of our respectful consideration.

REHFUES,

Minister for North Germany.

FREDERICK F. LOW.

Minister for United States.

EUG. BUTZOW,

Chargé d'Affaires for Russia.

THOMAS FRANCIS WADE,

Chargé d'Affaires for Great Britain.

B.

TUNGCHI, 9th year, 9th moon, 3d day, (September 27, 1870.)

Prince Kung, chief secretary for foreign affairs, herewith sends a reply.

I had the honor to receive the joint note of the 24th instant addressed to me by your excellencies, in which you state that Mr. Rochechonart, chargé d'affaires of France, had informed you at a meeting, which he had called for general consultation, of the decision which had been come to in regard to the punishment of the murderers in June last of the French officials and subjects at Tientsin; and that you consider this decision, reached three months after the events, as entirely unsatisfactory and very far from giving that assurance of general security to all foreigners living in China, which they require.

You are already aware that His Majesty appointed Tsang Kwohfan, then governor general of this province, and others with him, to secretly search out and arrest the persons concerned in the riot, and execute those who had been tried and found guilty of murder; and also to take the depositions of the prefect and magistrate of Tien-tsin, who were so remiss in their duty, with all the evidence that could be obtained, and send it with the prisoners to the board of punishments, where they would be tried and sentenced. All this surely is proof that he wishes to act with strict justice in the matter.

The safety of foreigners residing in China will also be assured, for the people everywhere will notice how the murderers at Tien-tsin have been dealt with, and will not be desirous to experience the last penalty of the law on their own bodies, while local officials in every place will mark how those at Tientsin have been arrested and punished for their remissness in duty, and take warning to prevent like excesses.

When their cases and all relating to this affair are settled, His Majesty will issue a general mandate to all the high provincial officers to strictly enjoin on every local magistrate to protect the foreigners, so that hereafter it is to be hoped that they and the natives can live together peaceably. As soon as the cases of the prisoners are concluded, and I have received the commands of the Emperor, I will again communicate with your excellencies.

BARON REINFUES, *Minister of the North German Confederation*; **HON. FREDERICK F. LOW**, *Minister of the United States*; **EUG. BUTZOW**, *Russian Chargé d'Affaires*; **THOMAS F. WADE**, *C. B., British Chargé d'Affaires*.

C.

TUNGCHI, 9th year, 9th moon, 11th day, (October 5, 1870.)

Prince Kung, chief secretary of state for foreign affairs, herewith makes a communication.

The following imperial decree has this day been received:

When the quarrel arose at Tien-tsin between the citizens and the Roman Catholics, the prefect, Chang Kwang-tsao, and the district magistrate, Liu Kieh, neither took any precautionary measures to guard against the outbreak, nor exerted themselves after it occurred to speedily arrest the guilty persons concerned in it, in consequence of which orders were then transmitted to degrade them both, and deliver them to the board of punishments for trial and condemnation. Subsequent to this Tsang Kwoh-fan and his colleagues having taken their depositions in full, sent them to the custody of that board at Peking. The officers in this tribunal have now reported upon their case, saying: The statutes provide that when seditious people stir up a riot, the civil officers who cannot suppress it and allay the discontent, are to be degraded; if their offense is aggravated, they are to be banished to the army, and subjected to hard labor. As the circumstances of this case are very serious the board requests particular orders as to the increased sentence to be inflicted upon them.

Seeing that these two magistrates were intrusted with the government of the city of Tientsin, and when the people gathered in crowds ready for a riot they were inefficient in taking any measures to restrain them, so that the mob seized their opportunity to set fire to houses and kill and wound many people, and afterwards did nothing efficient to immediately seize the guilty actors, their criminality under all the circumstances is exceedingly great. Furthermore, after their degradation, and when they knew that the decree delivering them to the board of punishments for meting out their doom had been issued, the prefect Chang had the presumption to skulk off to Shuntch. (in the south of the province), and the district magistrate, Liu, to slip away to Mihyun, (near the great wall,) both thereby intending to prolong the matter, and making their contemptuous effrontery more manifest. Let both of them be banished to (Tsitsihar-) the region of the Amoor River, there to expiate their crimes by hard labor, as a signal warning to law-breakers.

The people of Tient-sin not only have cherished groundless suspicion and stirred up animosity in disregard of their authorities to be quiet, but suddenly went to such a daring length as to kill more than twenty persons; and what was still more atrocious, brutally murdered the Sisters of Charity in their asylum. Tsang Kwoh-fan and his colleagues have seized the guilty participators in the riot, and after clearly ascertaining the degree of their guilt, have sentenced Fung and fourteen others to death, and Wang and twenty others to banishment to the army. Since the sentences accord with the crimes, let them now be carried into effect. Let Fung and the others be immediately executed; and Wang and his party sent by couples to different places of banishment. These severe sentences being carried out, let the local authorities throughout the provinces issue the most peremptory orders to the people to observe the laws, and not again stir up riots. Whatever may arise that concerns both natives and foreigners, let it be managed with justice, and settled according to treaty stipulations. It is henceforth to be hoped that they will both, of whatever calling they may be, now live amicably together, and that the land will be quiet everywhere. Respect this.

I have now the honor to send the above to your excellency for your information.

His Excellency **FREDERICK F. LOW**,
U. S. Minister to China.

D.

TUNGCHI, 9th year, 9th moon, 16th day, (October 10, 1870.)

Prince Kung, chief secretary of state for foreign affairs, herewith makes a communication.

I have already informed your excellency that a decree was received on the 6th instant, in relation to the Tientsin affair, in which it was ordered that the severe sentence on the prefect and district magistrate should be strictly carried into effect; that Fung and others, fifteen in all, who stirred up the riot, be executed; and that Wang and twenty others be banished to different regions.

I was honored by receiving a second decree yesterday upon the same matter; "Tsang Kwoh-fan and his colleagues report that they have further examined persons implicated in the riot at Tientsin, and have sentenced them according to their guilt. These persons were arrested after the others, and a list of their names has been sent up, with particulars of the trial, and degrees of punishment to be inflicted. These decisions are approved. Let Liu and the other four be summarily executed, and Táng and the other three be sent into banishment to different places. Respect this."

With the punishment of these men now arrested in addition. The cabinet ministers Tsang Kwoh-fan and Li Hung-chang report that the trial and sentence (of persons connected with the riot) has been brought to a close; and my object in this communication is to inform you of the same.

His Excellency **FREDERICK F. LOW**,
United States Minister to China.

E.

LEGATION OF THE UNITED STATES,
Peking, October 17, 1870.

SIR: I have the honor to acknowledge the receipt of your Highness's two dispatches of the 5th and 10th instant, the contents of which I have carefully noted. In the first, you mention the reception of imperial decree in relation to the riot at Tientsin, ordering that the prefect Chang Kwang-tsao and the district magistrate Lin Kieh be banished to the region of the Amoor to toilsomely work out their time; that Fung, with fourteen others, be executed; and Wang and twenty others be banished to different regions; in the second, you state that another decree has been received condemning Liu and four others, since arrested, to death, and Táng and his fellows, five in all, to banishment.

The sentences on the criminals connected with the dreadful tragedy at Tientsin, involving the loss of many lives and producing momentous consequences, must necessarily be reported to the President of the United States, for his information; and when I have received his instructions upon the matter, I shall again address your Imperial Highness.

I have, &c.,

FREDERICK F. LOW.

His Imperial Highness **PRINCE KUNG**, &c., &c., &c.

F,

TUNGCHI, 9th year, 9th moon, 18th day, (October 12, 1870.)

Prince Kung, chief secretary of state for foreign affairs, herewith makes a communication.

I have been this day honored by receiving the following decree :

"Let Li Hung-chang still remain at Tientsin, and not hasten his return to Pao-ting, for (the provincial capital,) as it is important for him to attend to every detail connected with the pacification and repression of disorder there, in order to firmly settle the whole affair; which when done, both in relation to foreigners as well as natives, let him report for further instructions. Respect this."

In conformity to usage I now send this for your excellency's information.

His Excellency FREDERICK F. LOW,

United States Minister to China.

G.

Copy of a dispatch from the acting French consul at Tientsin to the French chargé d'affaires, describing the execution of sixteen criminals.

OCTOBER 19, 1870.

With reference to your dispatch No. 29, of the 15th instant, I have the honor to report that the senior officer of the French navy here having expressed himself much averse to the sending of any one but a commissioned officer to witness the execution of the criminals now under sentence of death for the murders of the 21st June, we, after consultation with each other, decided that it was best, in view of the importance of the affair, to depute one of the commanders of the gun-boats stationed here, and Mr. Interpreter Frater, to be present on the occasion.

The whole subject of the proceedings at the execution was then discussed at an interview between the prefect and myself yesterday. He informed me that it was the desire of the governor general, as there was a possibility of a disturbance taking place among the already excited population, that the sentence of death should be carried into execution before sunrise to-day. The prefect insisted on the necessity of the French officer and Mr. Frater proceeding to the spot during the night, and in small chairs, under a guard of fifty men, which he would supply; and he hoped the attention of the crowd, which would be composed, notwithstanding the early hour, of weeping friends and relatives, and numerous rowdies, would not be attracted to them. I objected to these two officers proceeding in the undignified mode desired by him, and told him that I should not send any one to an execution that was to take place in the dark. He still maintained the necessity of putting the criminals to death at the time named; and after some discussion, during which the prefect gave unmistakable proofs of excitements having shown itself to a large extent among the people for the last three or four days, on account of the intended fate of these men, and did not conceal from me that the governor general was afraid of serious disturbance. I said that I would send no one to the execution under the present proposed arrangements, but that I should leave the whole matter to be settled by the governor general as he pleased. I added, however, that I wished to have some proofs of the reality of the executions supplied to me. These the prefect thought might be afforded by the spectacle of the confined remains, and he invited me to send some one to inspect them after the execution was over. He also asked whether a formal dispatch from the superintendent of trade, announcing the fact of the decapitation having taken place, would be received by me as evidence. This I consented to accept. The prefect said he was glad that his presence would not be required at the execution, and confessed that he himself would be afraid to go in any case. Before leaving, the prefect informed me that it was actually true that money payments were being made to the relatives of the men condemned to death, but that the sums were raised by public subscriptions.

I had previously directed Mr. Frater, the interpreter, to call in the early part of the day on the prefect, and arrange about the presence of the French naval officer and himself at the execution, and to tell the prefect, in my name, that it was expected of the Chinese authorities that steps would be taken to secure foreigners from molestation and insult.

The prefect thought it right to retire with Mr. Frater into a private room, where, after the exclusion of all the domestics and official attendants, who were ordered to retire, he conversed on everything relating to the execution in a whisper, and even then kept starting now and again, thinking some one was engaged in listening. The reason of his conduct was a fear that a distrust of the people of Tientsin felt by all the

authorities, which he had to communicate to Mr. Frater, would leak out. The prefect, in fact, felt so ill at ease in his own yamen, (office,) that he at last desired that the discussion of the subject of the execution might be transferred to this consulate, whither he proceeded for that purpose shortly afterward, and this led to the above-mentioned interview I had with him.

In the night-time I sent one of the consular messengers to Tien-tsin, and instructed him to take note of what went on at the execution, and to bring back with him, if possible, the death-warrants attached to the bodies of the criminals, an inspection of which would furnish me with the names of the persons actually put to death. Mr. Frater gave the messenger his official card to be used in the event of his being driven back by the police. The messenger made a greater use of it than was intended, for by means of it he made his way to the district magistrate's yamen (office) before the criminals were brought out of jail, and saw the whole proceedings from that time till their death. He has reported to me that about two hundred police and soldiers escorted them from the jail to the district magistrate's court-room, where they were marshalled, sixteen in all. None of them would kneel to be bound when ordered to do so. They were all dressed in what is everywhere stated to be a government present, viz: new silk clothes, and wore on their feet shoes of elegant manufacture; their hair was dressed after the female fashion, in various modes, and ornaments such as those seen on the heads of Chinese ladies were stuck in their head-dresses. While in the court-room one of them vociferated abuse of the Hsie-tai, who had probably caused his arrest to be made.

On the way to the execution ground the criminals bawled to the crowds, which even at that early hour in the morning had collected, "Have we changed countenance?" and were answered immediately that they had not. They also accused the Chinese authorities of selling their heads to the foreigners, and called out to the people to honor them by the name of "brave boys," which was done by the united voices of the crowd. A large number of the personal friends and relatives of the condemned followed them along, giving vent to tears and lamentations. On the arrival of the procession at the execution ground outside the west gate the criminals commenced singing, on hearing which the presiding magistrate, the Fiat-Sing-Haien, gave the order for their decapitation.

The criminals themselves stretched out their necks to receive the blow, and the executioners, five or six in number, all of whom were southern soldiers, soon finished the proceedings.

This occurred about 5.30 a. m. The ground was kept by numerous soldiers. The consulate messenger was allowed to pick up the 16 death warrants and to bring them away, and I now have them in my possession.

The men who murdered the Russians were not, I believe, among those who suffered. The execution has passed off more peaceably than I expected, and this is probably owing to the secret nature of the arrangements made by the Chinese authorities.

From all that I have heard lately, the death of the murderers is not likely to impress the people much, and will probably only deepen their resentment against foreigners. There is no doubt but that the men who have been put to death have received, in the eyes of the populace, and, I am afraid, if all the reports that have been made to me are true, in the eyes of the authorities also, the fate of martyrs.

W. H. LAY.

No. 21.

Mr. Low to Mr. Fish.

No. 37.]

LEGATION OF THE UNITED STATES,
Peking, November 22, 1870. (Received January 25.)

SIR: During the recent visit of Admiral Rodgers and Consul General Seward to Peking, an opportunity was afforded for the admiral, the consul general and myself, to consult together in regard to carrying out the instructions contained in your No. 9, with reference to opening negotiations with Corea.

It seemed in every respect desirable to select a favorable season for the visit to the coast of Corea, of which so little is known, and at the same time it was my desire to so arrange it as to interfere as little as possible with the plans of the admiral and the requirements of the naval forces in other places.

It is now determined—subject however to any change which may be rendered necessary by circumstances, either to the admiral or myself—that the expedition shall start from Shanghai, or Chefoo, the latter if possible, between the 1st and the 15th of May next. The line of procedure will so much depend upon the temper of the Corean officials that no definite plan can be decided upon at the present moment.

I shall be glad to avail myself of the services of Mr. Consul General Seward, and shall expect to profit by his experience, if he goes. He was shown your instructions to me, and invited to join the expedition. If he reaches China in season after his visit to India, where he goes for the winter, he may accompany me.

In order that the Coreans may not have any grounds on which to base technical objections, I have, most respectfully, to request that a commission may be sent, by the steamer leaving San Francisco not later than the 1st of March next, authorizing me to negotiate and sign on behalf of the United States such treaty or treaties with the government of Corea as may be deemed advisable.

During the winter I shall use every exertion to obtain information in regard to this unknown country from the Chinese authorities, and also, if possible, from the Corean officers accompanying the Tribute, which reaches Peking annually in December or January.

The North German minister in Japan attempted to open communication with Corea last summer. To facilitate his proceedings, he took a Japanese official with him, hoping by this means to reach the government of Corea. I inclose copy of an extract from a letter from the minister in Japan to the North German minister in Peking, (inclosure A,) giving a brief account of his visit and hasty departure. From this it appears that the Coreans are disposed to seize upon any subterfuge to oppose the entrance of foreigners into their dominions.

As stated in a former dispatch, I am not sanguine of favorable results: at the same time the object aimed at is worthy of the trial, and no effort on my part shall be wanting to accomplish it.

I have, &c.,

FREDERICK F. LOW.

[Translation from the German.]

Extract from a letter from M. Von Brandt, minister of the North German Union in Japan, to Baron de Rehfues Peking.

The vicinity of Corea induced us to make a little trip in this direction, and we arrived there on the forenoon of 1st June.

The harbor of Fusan is excellent, but the country dreadful; quite bare and yellow, only in some few places overgrown with wood, and quite deficiently cultivated. The Japanese station is a miserable colliery, most houses of which are in ruins. They are inhabited by half a dozen officials, and thirty or forty coolies, who are not allowed to absent themselves farther than half a mile from their lodgings, and are altogether very badly treated by the Coreans. My chief object was to obtain a clear insight into the whole matter, and through the interposition of an officer of the Japanese foreign office, whom we had on board, I requested the Japanese chief of the factory to tell the Corean officials that, in case they were desirous to receive a communication regarding shipwrecked German subjects, I could give them such information either on board or in the Japanese factory.

The answer to this proposition is highly characteristic, and will convey to you the plain truth about the state of affairs in these parts better than anything else. The Corean authorities thought it exceedingly impudent that the Japanese had delivered a message of this kind, and they also declared it quite improper that some Japanese had dared to come to Corea on board a foreign vessel. For these reasons the relations between the Japanese officials and the Corean government must be broken off immediately, and were not to be resumed until a Japanese on board the foreign vessel had

left the country. This proof will be sufficient for you. I hastened, of course, to assure the Japanese officials that I should be inconsolable if any difficulties were likely to result to the Japanese from the circumstance that some of their officers were on board our ship. We would start, therefore, as soon as possible. This Captain Kohler did, on the 2d of June, after some gun-practice.

During a walk on shore, the people we met in the fields were tolerably courteous, but as we approached a village the whole of the inhabitants assembled in the street, offering passive resistance, and declaring that the Japanese were not allowed to go any farther. Of course we retreated courageously, and cannot complain about the people generally, who behaved themselves toward us in a more civilized manner than the brave Germans would have done toward the Koreans. They are strapping fellows, all dressed in white, as they are represented on pictures. Their villages and towns are miserable, like their junks and boats.

No arms whatever are to be seen, and are said to consist solely of matchlocks. During the gun-practice, a few thousand people with flags had assembled from a large town in the neighborhood, but on this occasion, too, no arms were seen.

No. 22.

Mr. Low to Mr. Fish.

No. 43.]

LEGATION OF THE UNITED STATES,
Peking, December 15, 1870.

SIR: I have the honor to inform you that a careful estimate of the loss and damage sustained by the North China Branch of the American Board of Foreign Missions, by the action of the mob at Tien-tsin, on the 21st of June last, fixed the amount at 4,785¹⁰/₁₀₀ Tien-tsin taels, about \$6,700.

The property destroyed consisted of one chapel building, with rooms adjoining suitable for a residence, the property of the society, and another small chapel in another part of the city, which was rented of the Chinese. The damage to the latter was estimated at 285⁵⁰/₁₀₀ taels.

The vice-consul, at Tien-tsin, by my authority and direction, presented the claim to the local authorities; and a settlement was made by their agreeing to rebuild the rented premises in a manner satisfactory to the owner, and the payment in money of the claim for damages to the larger chapel. This has all been done to my entire satisfaction. For more full particulars in regard to the adjustment of the claim, and the disposition of the funds, I beg to refer you to the vice-consul's dispatch to me, a copy of which accompanies this, (inclosure A.)

With reference to the additional claim mentioned by Mr. Meadows in his dispatch, which is preferred by the Rev. Mr. Stanley for losses and damage sustained by native Christians, and my decision upon this as well as upon all claims of a similar character, I have, most respectfully, to refer you to my dispatch to the vice-consul, a copy of which forms the inclosure D in my dispatch No. 40, of December 5th, to the Department. The settlement of this matter adjusts all legal and proper claims for losses or damages sustained by citizens of the United States in consequence of the riot at Tientsin, so far as I am at present informed.

Trusting that my action in the premises will receive the approval of the President, I have, &c.,

FREDERICK F. LOW.

A.

Mr. Meadows to Mr. Low.

No. 42.]

UNITED STATES CONSULATE,
Tien-tsin, November 18, 1870.

SIR: I have the honor to acknowledge the receipt of your excellency's dispatch dated 17th ultimo, instructing me to obtain from the Chinese authorities the sum of taels 4,785.⁰⁰/₁₀₀ for the chapels destroyed in Tientsin City, on the 21st of June last, by the Chinese people belonging to the North China Mission of the American Board of Foreign Missions. Immediately after the receipt of your dispatch I addressed his excellency Chung-lin on the subject, and handed him translation of the paper received from you, giving in detail the losses sustained, and the particular claims for each. Later, I had several interviews with Ma, the prefect, at my office, on this subject, and it was finally arranged by us that as he had, previously to the receipt of my dispatch, already begun erecting the second chapel near the west gate of the city, for which there were charged taels 235.⁰⁰/₁₀₀, by the wish of Rev. Mr. Stanley, that he should proceed with the work and finish it, and that the sum of taels 4,499.⁶⁰/₁₀₀ should be paid in cash as liquidation for the claim sent to me from the legation. I have now to inform your excellency that I last night received a dispatch from Ma, the prefect, inclosing a customs banker's order for the above-mentioned amount of taels 4,499.⁶⁰/₁₀₀, and that I this morning handed the order to Messrs. Russell & Co., of this post, with instructions to hold the amount to the credit of the North China Mission of the American Board of Foreign Missions; and I beg to inclose Messrs. Russell & Co.'s receipt for the amount which I obtained, in duplicate. I have further to inform you that the Rev. Mr. Stanley called on me a few days back to say that he had another claim to present to the Chinese authorities on account of some Chinese connected with the mission. I shall be obliged to you if you will give me instructions on this head for my guidance when I am called upon to address the authorities, as I take it for granted, although I have received no instructions from you on this matter, that the further claims meet with your approval.

I have, &c.,

JOHN A. T. MEADOWS.

No. 23.

Mr. Low to Mr. Fish.

No. 45.]

LEGATION OF THE UNITED STATES,
Peking, December 27, 1870. (Received February 24.)

SIR: A short time since a report came to me from Tientsin that the people there were preparing to give to the men that were executed for participation in the riot of last summer, a grand public funeral, and that funds were being collected to erect a tablet or temple to their memory. While it appeared desirable in every respect that the proper authorities should endeavor to prevent such proceedings, it did not seem to be a case in which a formal official protest by myself or my colleagues would be proper or becoming. I deemed it advisable, however, to send Mr. Williams to the Foreign Office with a verbal message pointing out the danger to be apprehended from a large popular assemblage such as would be collected at the funeral, and the evil effect the news of such proceedings would have abroad, and advising the government to take such measures as should be by the proper officers deemed advisable to put a stop to it. At the same time the vice-consul at Tientsin was instructed to call upon the viceroy and make similar friendly representations to him. Herewith I have the honor to inclose copy of a dispatch from the vice-consul giving a report of his interview with the viceroy, and the assurances of the latter that the proceedings contemplated will not be allowed to take place. This matter is important, chiefly as exhibiting the temper of the people of Tientsin, and I should not have troubled you with any reference to it but for the fact that the

rumor, when it reaches Shanghai, will probably be seized upon and given undue prominence in the newspapers, and have the effect to keep alive the fears and apprehensions of the foreign community.

I have, &c.,

FREDERICK F. LOW.

Mr. Meadows to Mr. Low.

UNITED STATES CONSULATE,
Tientsin, December 22, 1870.

SIR: On the 20th instant I called on Li-Hong-Chang, the viceroy, and brought on the subject of your last letter to me in regard to the report current at Peking, "that the people of Tientsin are preparing to give the beheaded martyrs a grand funeral, and that a memorial tablet or temple will be erected to their memory."

His excellency said that shortly after the executions a rumor was current in Tientsin that it was the intention of the people to erect a *tsze-tang*, (which we may, in this case, translate by the words a "sacrificial temple,") dedicated to the memory of the executed men, but that on the rumor reaching his ears, he at once called the prefect and magistrate (Chefoo and Chehsien) to him and ordered them to rigorously prevent any such action on the part of the inhabitants, if they actually contemplated it. He further added that the men had been punished in accordance with the laws of China, for the killing of foreigners, and as Chinese and foreigners were one family it could never be permitted by the territorial authorities that the people of Tien-tsin should be allowed to erect a *tsze-tang* to their memories; and if the attempt was made he himself, as the viceroy, would personally proceed to the spot and pull the building down.

On no account would it be permitted by the territorial officers. It was, however, he was sure, never the intention of the respectable inhabitants of Tientsin to do any such thing, and that rumor arose, he was confident, from some utterances of the lower orders, who were congregated at the place of execution. I am confident in the opinion that the viceroy would not allow the inhabitants of Tien-tsin to erect any such *tsz-tang* or temple as mentioned in your letter of 15th instant. I told the viceroy that I would report his words to your excellency, and I further added that you might be passing through Tientsin next spring on your way to the southern ports, which you had not yet visited. He said he would be very glad to see you if you came to Tientsin.

I am, &c.,

JOHN A. T. MEADOWS.

No. 24.

Mr. Low to Mr. Fish.



No. 46.]

LEGATION OF THE UNITED STATES,
Peking, January 10, 1871. (Received March 28.)

SIR: Hitherto I have confined myself to reporting, with as much care as possible, upon the present condition of affairs in China, without indulging in reflections as to the past or in speculations upon the future. This appeared to me to be the course of wisdom and prudence; and while the information given in this way might not be as full and complete as would be desirable, what you did receive would be more exact and reliable. And besides, time, observation, and experience seemed necessary to enable an impartial judgment to be formed with reference to a country and people about which there are so many antagonistic theories and diverse opinions as there are in regard to China and the Chinese. No forecast of the future would be likely to prove correct, or subserve any useful purpose unless founded upon a broader basis than the prevailing opinions and prophecies current here seemed to be.

In submitting some observations upon China, its social and political organization, its relations with the people and governments of other

nations, and some speculations in regard to the future, I do it with some diffidence, knowing as I do that opinions upon these points differ so widely that the exact truth can only be approximated. Even with the same sources of information, different persons form different theories and arrive at opposite conclusions, each theory appearing plausible and all opinions containing more or less truth.

China is in itself a country of contradictions. No generalization is safe or likely to prove correct, for to fifty examples adduced to prove a given state of facts, one hundred may be brought forward to prove the contrary. This is true of the government as well as everything else.

Commencing with the Emperor and tracing the authority downward, nothing is seen but irresponsible autocratic power, which must of necessity make the government an absolute despotism; while if you begin at the bottom and go up through the several gradations of society and governmental authority, democracy appears to be a principle deeply embedded in the governmental structure, the popular will exercising a controlling influence over the officials—the officers evidently being guided, to a great extent, by the will of the governed. The fact is, however, that it is neither the one nor the other, but a strange mixture of both—despotism and democracy; of absolute authority vested in the Emperor to do all things according to his will, while this power is so hedged about by precedent and tradition that little can be effected except in obedience to the popular will.

In theory the Emperor is God's viceregent on earth, and the source of all law both human and divine. He claims to be, by right, the possessor of the soil; owner of all the resources of the country; the source of office from which come power, honor and emolument; and is entitled to the services of all male subjects between the ages of sixteen and sixty.

Were this theory carried out in practice the government of China would be the strongest of any on earth. One man's arbitrary will controlling and directing four hundred million of people has no parallel.

Against this theory may be safely stated as a fact that the power of the imperial government is weak, amounting to feebleness, exercising a control over its people rather nominal than real.

China is divided into eighteen provinces, each having a separate government, the chief officials of which are direct appointees of the Emperor. In theory, the provincial governments are instituted for convenience, to assist the imperial government in the exercise of its jurisdiction and authority over the people, while in fact the provinces are to all intents and purposes independent tributary states in which the authority of the central power is scarcely felt except through the provincial officials. The governments of the provinces in their workings appear to be a complete realization of the day-dreams of the more enthusiastic advocates of, and believers in, "State rights" in the United States.

The provincial officers are invested with legislative and judicial, as well as executive powers, and are, to all intents and purposes, supreme within their jurisdictions.

They grant leases for the land and receive the rental, fix the rate and mode of taxation, and cause the taxes to be levied and collected, and appropriate the proceeds, over and above what may be demanded by the central government as an annual contribution for its support, to defray the expenses of provincial administration. And when any extraordinary expenditure is rendered necessary, it is their duty to

devise means for raising unusual taxes to meet the emergency. The officers of the provinces are expected to maintain peace and good order within their several jurisdictions; to repel invasion and suppress insurrection, and, if necessary for the purpose, to raise and organize troops and support them. They are required to do all this without having any fixed rules of law for their guidance. When any outbreak occurs, the fact is looked upon by the central government as *prima facie* evidence of the incapacity or dishonesty of the local officials, justifying instant removal from office and degradation.

By Chinese law, acts of omission are punished with as great or greater severity than acts of commission. If an insurrection occurs, it is quite according to precedent to use any available means to put it down, and it not unfrequently happens that leaders of guerrilla bands are rewarded with money, and even with office, as a *quid pro quo* for disbanding their marauding forces. If, on the other hand, force is resorted to to suppress insurrection, the maxim of Machiavelli appears to be the law of war: "It is safer to put an enemy to death, because, if his life be spared, he may stir up sedition again." Instances occur when men and money are ordered from other provinces to aid in suppressing revolt, but, as a rule, each province is expected to maintain peace without aid from elsewhere.

The chief officials of the provinces usually recommend or nominate persons to fill the subordinate offices. These recommendations require imperial sanction, which is rarely withheld, before they can become effective; a nomination being considered equal to an appointment. In this way by far the larger number of offices in the empire are filled by the high provincial offices, while in the theory all appointments are made by the Emperor alone.

Theoretically all offices are filled by the intelligent and educated only, the test of a literary examination being applied to all candidates, and only those who pass this ordeal with credit being considered eligible. The humblest person in the empire, if fitted by education, is eligible to the highest office below royalty. This rule is adhered to with a strictness and impartiality that would be highly creditable in any nation. As a proof of this a large proportion of the high officials at the present time are men of lowly origin. This system, admirable in itself, has stood the test of nearly eleven hundred years' practice. It has survived internal wars and changes of dynasty, and is to-day more firmly fixed in the polity of the empire and the affections of the people than any principle which governs this nation. Indeed it is about the only principle that has not so often been set aside from motives of *policy* that little is to be found of the original.

Great precautions are taken to secure absolute impartiality in the examinations, and I am convinced that they are conducted in a manner that would be creditable anywhere, and that equal and exact justice is substantially done. Much has been said and written by foreigners in regard to the sale of offices to non-graduates for money, and while it is undoubtedly true that this expedient has been resorted to in times of great financial distress, to replenish the government exchequer, I am inclined to believe that rank, and not office, is the chief thing sold and purchased. In other words, a title resembling somewhat a brevet rank in our Army, which carries with it honor but no emoluments, is the thing purchasable. To be sure a person holding rank is eligible to office, but as a matter of fact few of those that purchase rank are appointed to office.

The great drawback connected with this excellent system is the use-

less character of the education when applied to the practical concerns of life. What would be thought of the *curriculum* of our universities and colleges that included only the study of the Old Testament in English, and the Greek, Hebrew, and Arabic languages? Or of an examination in which the student, in order to entitle him to a diploma, would be required to exhibit a thorough knowledge of the three dead languages, and be able to recite from memory the Books of Moses, the Psalms of David, and the Proverbs of Solomon! And yet this is not an inapt illustration of the nature of a thorough course of Chinese instructions.

Education in this country includes a long and laborious course of study, consuming the best years of a life-time, and in the end the result is valueless for any useful purpose to the government or people.

Another glaring defect in the construction of society is that the hope of obtaining office is the great, if not the only, incentive to a thorough education. Office, which brings to its recipient honor, power, and reward, is the end and aim of all men in this country. With this end in view they will struggle in poverty through a long series of years, triennially submitting themselves to an examination, with ninety-nine chances in a hundred against success; and many who do obtain the coveted prize only succeed at the ages of 50, 60, and 70 years, when their mental and physical energies are well-nigh exhausted. So far as I can learn, few, if any, enter upon a thorough course of study with a view of fitting themselves for professional labors, or of applying their talents to any useful purpose in science or art.

Where there is such a scramble for place and power the number of unsuccessful ones must be very large. Scarcely one per cent. of those that compete triennially for the highest degree are successful; and when it is taken into consideration that only those that pass a successful provincial examination are entitled to compete at Peking, some estimate may be made of the vast numbers in the empire that enter the race for renown and reward.

Those who do not succeed constitute, by common consent, a middle class, commonly known as the "literati and gentry." The people of this class occupy a medium position between the officials and peasantry. They act as advisers to the lower classes, and their good offices are sought by the governing class in the management of local concerns. By their superior intelligence they are enabled to control most of the property, and yet few acquire such wealth as would enable them to oppress the people, were they so disposed.

This class create the public opinion of the country, which exercises a controlling influence over the officials, and is usually powerful enough to thwart the intentions and nullify the action of the officers, from the Emperor down, whenever popular rights are in danger of being invaded or the people unduly oppressed. So powerful is the influence of the literati that all officials endeavor to conform their action to the popular will, and in this view the government of China is essentially democratic in practice.

Where offices are obtained at the cost of so much labor and expense, the officials expect to reimburse themselves for all their trouble when position is once obtained, and, if report be true, they seldom fail in their purposes, nor are they particular or scrupulous about the means by which it is done. To successfully accomplish what they desire, with the people in front and the Emperor behind, vested with the arbitrary power of removal from office, is not always easy; so that the acquisition of ill-gotten gains without risk of unhappy consequences usually com-

pels the officials to resort to falsehood and subterfuge. When complaint is made to the imperial government, all the advantages are on the side of the officials and against the complainants; for in a country like this, where there are neither railroads, telegraphs, nor a well-regulated postal system, communication between the capital and the provinces is slow, irregular, and uncertain, and the officials are thus enabled to present their side of the case first, and in the most favorable light; and in the absence of a newspaper press the popular voice can scarcely be heard outside of the immediate vicinity whenever such cases arise. These causes often give rise to insurrection and rebellion, which seem to be the only mode left to the people to redress their wrongs.

* * * * *

The arbitrary power vested in the officials appears to render falsehood necessary, on the part of the common people, in order to escape oppressive burdens and unjust punishments; and the desire for dishonest gains on the part of the officials compels them to use subterfuge to escape untoward results. As an offset to this kind of dishonesty and in justice to the Chinese, it should be stated that among the trading and mercantile classes there is probably more honor and honesty than is to be found among similar classes in any country.

In placing a value upon the honesty of the Chinese, as compared with that of other nations, I by no means overlook the difference between Paganism and Christianity; but with all its elevating tendencies I should be inclined to doubt the efficacy of Christianity, unaided by other enlightening and elevating influences, in controlling the baser passions of men, keeping them in the path of rectitude and virtue, when exposed to the temptations that Chinese officials are. It would be hazardous to predict a better state of public and official morality in any nation, however enlightened, according to our ideas of enlightenment, with a government of arbitrary power, depending more on tradition and precedent than well-defined written law for the guidance of the officials and the people.

In view of all these adverse circumstances, instead of finding progress, it is a matter of surprise that the whole social and governmental fabric has not fallen to pieces of its own weight. With such entire independence on the part of the provinces the wonder is that the central government has been able to maintain any prestige or power whatever. Isolation has undoubtedly done much toward keeping the nation intact; and the fact that the Emperor is regarded as the spiritual as well as the temporal head adds much to his power and to the force of imperial edicts. But more than all other influences combined is the universal ambition for official position, and the mode of making the appointments. This is the strong bond that has kept the nation together. By the method of competitive examinations before referred to, all the intellect and education of the empire is either in office or hoping to get in. The officials are anxious to keep the government intact in order to retain place and power, and a large portion of the literati live in the hope that a happy turn in the wheel of fortune, a successful examination, will give them official position also.

This is also a great hinderance in the way of making improvements; an almost impassable barrier in the path of progress, which is difficult to reach or overcome by reason or argument.

The language is another great obstacle which only time and forbearance on the part of other nations will be able to remove even partially.

The language is so cumbersome that it consumes many years in the lifetime of a native to master it thoroughly. If this be so in the case of

natives, what are the prospects of foreigners that undertake the task? To be sure, there are, at this time, a number of foreigners able to read and speak the language with more or less fluency; yet, with all their years of patient study, it would not be safe to affirm that there is in China a single foreigner able to read and speak the language thoroughly and correctly, or one that would undertake to translate a letter or dispatch into Chinese without the aid of a native teacher or writer, and be certain that the meaning and intent would be correctly understood.

The Chinese appreciate but slightly the importance of learning other languages, which would enable them to read the literature of other nations, and, until more enlightened, will make little or no effort in that direction; and until they can be led to appreciate the value of foreign knowledge, or foreigners can prepare themselves to teach the Chinese in their own language, how are the latter to acquire knowledge? Although the task is laborious, requiring much time and patience, yet the progress made in the last twenty years is encouraging. Text-books, dictionaries, &c., are multiplying, all of which will prove efficient aids in acquiring a knowledge of the language, and will facilitate very much the work in the future.

Aside from those connected with the foreign customs department of the Chinese government, the foreign diplomatic and consular service, and the missionaries, it would be difficult to find a single foreigner able to understand, speak, or write the Chinese language. The foreign merchants have made no effort in this direction. On the contrary, some firms have declined to employ natives that could speak and read English, fearing that the European price currents and market reports might be by them communicated to the native merchants. Substantially, all business with the natives is transacted through the agency of Chinese brokers, or "compradores."

Merchants are able to communicate with their compradores by means of a nondescript jargon called "*pidgin English*," by which the simplest ideas may be conveyed, orders for buying and selling, which answers the purposes of trade. It possesses, however, few elements of language, and its introduction and use have in no small degree retarded the progress of the natives at and near the ports in acquiring something like a correct knowledge of our language. It gives me pleasure, however, to chronicle the fact that there are at the present time in Peking two young men, employés of an American firm in Shanghai, studying the language, with a view of making themselves useful to their employers, and thus relieving the house somewhat from its entire dependence upon native compradores in communicating with Chinese merchants. This firm (Messrs. Augustine Heard & Co.) deserve honorable mention for liberality and enterprise in promoting what seems to be the acquisition of useful knowledge, and it is to be hoped that the experiment may prove such a success as to induce others to follow their example.

That the empire is in a state of decline the signs of decay and ruin to be met with on every hand afford painful evidence. When the decadence commenced, and what are the causes, are, like all other questions in regard to China, not easy to be answered. If the history of this country could be correctly known and understood, it would be found, undoubtedly, that progress and retrogression had alternated according to the vigor or licentiousness and profligacy of the several dynasties, and very much in proportion to the wisdom, honesty, and energy of the several ruling Emperors. The present decline, however, may, I think, be safely set down as dating from the reign of the Emperor Kien-loong, who ruled from 1736 to 1796. During the reign of that sov-

foreign vast sums of money were expended in repairing and enlarging old and building new imperial residences and pleasure grounds, and in the repair and erection of Buddhist temples, tombs, tablets, &c., all over the country. Succeeding Emperors do not appear to have had the vigor to repair the losses to the national wealth occasioned by the profligate expenditures made by Kien-loong. The people becoming impoverished, became also discontented, and their discontent showed itself in rebellions and insurrections. This insurrectionary spirit, on the part of the people, seems to have become chronic, and rebellion showed itself in nearly all the provinces of the empire at various times during the present century. It finally culminated in what was known as the Taeping rebellion, which raged with great violence and ferocity from about 1850 to 1865, and devastated and laid waste almost the entire central part of China before it was finally suppressed. To the destruction of life and property by the insurgents must be added the cost in men and money of the wars carried on by the imperial government for their suppression, and also the foreign wars that have occurred, all of which reduced hundreds of thousands of the peasantry to destitution, want, and starvation. From the best data obtainable, the loss of life by casualties of war, wounds, sickness, and starvation, within the last one hundred years, has overbalanced the natural increase of population, so that the actual number of people now in China is less than it was a century ago. If this estimate be correct, of which there can be little doubt, it is obvious that from these causes alone decline and retrogression must be the inevitable result. In addition to this, and more potent, probably, than all other causes combined, is the increase in the consumption of opium. This vice, which has consumed their substance and enervated the people, was scarcely known at the beginning of the present century. In the year 1800 the total amount of opium imported into China, according to the most authentic accounts, did not exceed 4,000 chests of 133 pounds each. In 1869 the amount of the foreign drug brought into this country was about 85,000 chests. This estimate includes 53,000 chests actually entered at the open ports, on which duties were paid, and 32,000 chests which the foreign customs authorities believe were smuggled into the country from Hong-Kong. At the beginning of the present century very little opium was produced in China. In 1869 careful estimates put down the native growth at equal to 75,000 chests, which makes the total consumption of this drug 160,000 chests, equal to 21,000,000 pounds, or *ten thousand five hundred tons*. The value of the opium brought into the country, in all ways from abroad, does not vary much from \$68,000,000, equal to seventy-five per cent. of the value of all the tea and silk exported to foreign countries. These figures tell a painful story, and are a sad commentary upon the beneficial influence of foreign trade upon the welfare of this people. They prove most conclusively that the vice of opium-smoking has consumed, and is consuming, a large portion of the earnings of the people, lessening their ability to pay taxes, which, in turn, tends to the impoverishment of the government. But this estimate only includes the smaller part of the loss and damage. The consumption of this drug has weakened the energies of the people, promoted indolence and profligacy, lessened their productive power, and thus accelerated the decay and ruin of the empire.

Whether this decadence can be arrested by a reformation in the habits of the people, or whether new sources of industry and wealth can be opened up to replace the losses caused by the use of opium, or both, are questions worthy of the serious consideration of all who desire to foster

and increase the commercial relations between the people of western nations and this country. The former, in my judgment, is only possible by creating among the people a better moral sentiment, which will have the effect to curb their appetites and passions; the latter can only be done by enlightening the governing and educated classes with reference to the benefits to be derived, and through their influence induce their own people to undertake the task of systematically developing the vast mineral and other resources that now lie dormant, or allow foreigners to do it for them. In my judgment these are the only means of regenerating this country and this people peacefully.

The masses must be educated through the labors and influence of the Christian missionaries chiefly, and the officials must be taught by the wise, judicious, and energetic action of foreign governments, through their diplomatic representatives in Peking. This latter influence must be exerted in the enlightenment of the officials, and the strengthening of the central power, so that its decrees and mandates may, while doing justice, have more force and command more respect than is the case now.

There is still another course more direct, if not more effective, than either, which may be termed the "popular course"—*force*. This is regarded by most of the foreign residents here as the only sure and speedy agent for "opening up" China. The merchants look upon the use of force as necessary to open up new resources and avenues of industry, and a large proportion of the missionaries favor it because their task will, by this means, be rendered less difficult, probably, than by the slow and laborious process of moral suasion.

I will do the missionaries the justice to say that their mode of reasoning leads them to honestly believe in the morality and humanity of war to accomplish the best results to this people. They believe that "the earth is the Lord's and the fullness thereof;" that they are simply agents in the hands of the Almighty to effect the christianization and regeneration of the heathen; that the more speedily the work progresses the better it is for the Chinese and the world; that force is absolutely necessary to break down the barriers of ignorance, conceit, and superstition, and that the use of armies to compel submission is only adding an auxiliary force to reason to accomplish the great work of the Master. The arguments against such a theory are so obvious that it is not necessary to repeat them here.

That the work of reformation by peaceful means will require many years of forbearance on the part of other nations, and patient labor and effort of those to whom the task is committed, is quite certain; but that time, forbearance, and labor will accomplish it, must in the nature of things be so. The believers in the other theory assert, with truth, that all foreigners are now residing in China through the influence of force exerted in former years, and hence nothing, in their opinion, but force will, in the future, break down the barriers of ignorance and superstition which stand in the pathway of progress. It is hardly necessary for me to say that to this theory in its entirety I do not subscribe.

Leaving justice and morality quite out of view, and reducing the question to one of policy and expediency simply, I see so many obstacles in the way of securing permanent advancement by war, for it really means nothing else, that I should hesitate long before counseling the application of military force for the purpose of obtaining further concessions.

But with all the forces which will be brought to bear against it, I have little hope, and no real expectation, that peaceful relations will continue

between China and foreign nations so that the ameliorating influences of education will be able to do the work of regeneration.

The slowness and vacillation of the central government will be likely to exhaust the patience of other nations; and the infractions of treaty rights by the provincial authorities and the people, and the pressure of the mercantile class for additional concessions, will sooner or later cause a rupture which will end in a foreign war.

In estimating the chances and counting the probabilities as to the future, it should be borne in mind that the manufacturing operations in some European countries are in a measure dependent upon maintaining and increasing the market for manufactures in India and China.

To try and relieve their suffering operatives at home, may cause these governments to pursue a course, in the attempt to increase trade, which would not, under other circumstances, be attempted.

Happily, no such considerations are likely to enter into the policy which the United States may choose to pursue towards this or any other nation.

In addition to all the other difficulties which stand in the way of the maintenance of peace and good-fellowship between natives and foreigners, is the "irrepressible conflict" which is sure to result when two distinct races and civilizations are brought *vis-a-vis*.

The Indian wars on the North American continent, and the experience of the people of the United States with African slavery, are painful illustrations of this truth.

The mistake that most foreign residents make, is in underestimating the value of Chinese intellect and Chinese civilization.

It is not fair to compare this people with Indians or negroes, or to place them on a par with the inhabitants of India and the Eastern Archipelago.

The Chinese are superior to most, if not all, existing Pagan nations, in mental capacity, industry, and administrative power. Although their education is faulty, and really valueless for the practical purposes of an enlightened age, yet their ability to master difficult studies shows a capacity for acquiring knowledge that compares favorably with any people. Chinese merchants compete successfully with the foreigner in all branches of trade, and occupy at the present time the vantage-ground here.

The peasantry are industrious, frugal, and painstaking; content with gains that afford subsistence in the most inexpensive form; noted for their docility and love of order. Their isolation, and ignorance of everything that pertains to modern science, promotes superstition, and their belief in the Emperor being the head of all affairs, both temporal and spiritual, leads them to look with distrust upon all innovations or prospect of change. The great mass of the people have never seen a foreigner. They have been taught that the people of other countries are a distinct and separate species, fierce, cruel, and rapacious, capable of committing any outrage, and ready to practice any device for purposes of gain.

Unfortunately, impartial history cannot be invoked to disprove many of the counts in the indictment against foreigners. On the other hand, most foreigners make little distinction between Chinese civilization and barbarism. In their opinion the Chinese are an inferior race, whose rights, privileges, or prejudices are too apt to be disregarded when gain is hindered thereby, or when they seem to stand in the way of the onward march of what we are pleased to call our "superior civilization."

The same influences are at work in China that produced a somewhat

noted dictum by one of the highest judicial officers of the United States, in which the assertion was made in substance, if not in words, "A negro has no rights that a white man is bound to respect." And this startling announcement was approved of, apparently, by a large minority, if not a majority, of the people of the United States.

Foreigners residing here are much too prone to exhibit by acts, if not by words, their belief in the doctrine that "a Chinaman has no rights that a white man is bound to respect."

The present reigning dynasty is weak and effete, capable of being overthrown by a joint movement of the treaty powers, or even by any one of the first-class powers alone.

If the present government be overthrown, what then? What will take its place? No foreign government would, I imagine, undertake to conquer China and hold it as a dependency, nor would such a course be tamely acquiesced in by the other treaty nations, if attempted. To divide and parcel out the territory among the western nations would also be impracticable, for there would be some—the United States among the number, probably—that would hesitate before accepting territory here if freely offered, and they would seriously object to any such scheme on the part of others. So that whatever may occur in the future, one thing may, I think, be safely set down as certain: China must be governed by the Chinese.

If there were men to be found in the non-official class of intelligence, breadth of mind, vigor of thought and courage, capable of and willing to do better if opportunity were offered them, than those now at the head of affairs, it might perhaps be policy for foreign nations, both in their own interests and for the future welfare of the Chinese, to favor the bringing of this new life into the government by aiding in the overthrow of the present effete dynasty. But, so far as I am able to learn, there are none to be found who would be likely to do better, or even as well, as the present officials. Those now at the head of the government have had the benefit of ten years' experience and direct contact with the foreign diplomatic representatives of other nations, in which time they have learned much, and can, therefore, better appreciate the power of the Western nations, and of the benefits to be derived by preserving amicable relations with them than any men in the empire.

But with all their advantages their progress in knowledge has been slow; so little that, in our moments of impatience, the task seems almost hopeless of ever being able to accomplish what all well-wishers to this government and people so much desire. But when we calmly consider the position in which these men are placed—foreign governments on the one hand demanding, oftentimes with menace, concessions possible and impossible, and on the other a nation of ignorance, superstition, and arrogance, that would not only prevent any forward movement, but would, if they could, undo all that has been done in the past—their difficulties and embarrassments appear to call for the exercise of charity and forbearance on the part of other nations. These difficulties the people at a distance do not see or appreciate, which accounts, in some measure, for the harsh, and, in many cases, unjust criticisms of the people and press of other nations upon the high officials here.

In view of all the difficulties herein detailed, I am of the opinion that foreign nations, in their intercourse with this government and people, should pursue a just and firm course, and at the same time be prepared to exercise patience and forbearance.

They should insist upon the due fulfillment of treaty engagements,

and be prepared to render protection to their own citizens and subjects, whenever the imperial government is either unable or unwilling to perform its duty. And while doing this with vigor and firmness, without unnecessary menace, every effort should be made to increase social and commercial intercourse, as fast as the government can make its power effective, and the increase be rendered safe and to the mutual advantage. Should a state of peace continue, this is the only prudent and practicable course to introduce reform. If, on the contrary, peaceful relations be interrupted, and the foundation of the government be shaken by foreign war, the education of the officials in the manner indicated will the better prepare them to accept and profit by innovations and radical changes that may, by pressure, be forced upon them.

I have, &c.,

FREDERICK F. LOW.

No. 25.

Mr. Low to Mr. Fish.

No. 47.]

LEGATION OF THE UNITED STATES,
Peking, January 15, 1871. (Received March 28.)

SIR: Referring to my dispatches Nos. 29, 31 and 34, in regard to the removal of the American missionaries from Tungchow, in consequence of apprehended danger, I have now the honor to inclose an extract from the report of Commander Kimberly, of the United States ship *Benicia*, which vessel was dispatched by Admiral Rodgers, in response to my suggestion, to convey the missionaries back to their homes.

You will also find inclosed translation of a note from the prefect at Tungchow to Commander Kimberly, in which assurance is given that the local authorities are able to and will protect the missionaries fully in the enjoyment of life and property, and in the peaceable pursuit of their calling.

The full report and the papers connected therewith, which the admiral sent me, are quite voluminous. Many of the papers do not seem important enough to send, nor is it possible to have copies of all made without employing additional clerical force. If, however, any further information should be wanted, copies of all the papers can, I presume, be obtained at the Navy Department.

In this connection I desire to say that I have had no information from the missionaries, except a short note from one of them saying that they had all reached Tungchow. Without expressing any opinion as to the real peril they were in, or whether there was or was not cause for the step they took, I am of the opinion that their removal and the manner of their return will, on the whole, result in good.

My thanks are due to Admiral Rodgers for the prompt assistance he rendered in bringing this matter to a satisfactory conclusion.

I have, &c.,

FREDERICK F. LOW.

Extract of a report made by Commander Kimberly, of the United States steamer Benicia, to Admiral Rogers, describing his trip from Chefoo to Tungchow, with the American missionaries on board.

OFF CHEFOO, October 22, 1870.

On the 20th instant, the translation having been finished, I received on board the American missionaries, their teachers and servants, also their children, amounting to a total of twenty-four persons, together with Mr. Solbe and servant, whose names are appended to a list appended to this letter, marked A, and at 10 a. m. got under way, and stood out of the harbor bound for Tungchow-foo, and anchored off that city at 2.15 p. m. the same day, and immediately sent an officer on shore to communicate with the chipfu (prefect) and to request an audience. The officer so sent returned, and informed me that I would be received at any time. I went on shore immediately, accompanied by several officers of the ship, and Mr. Solbe, the interpreter, and held the audience, being received in the usual way.

Your instructions to me (translated) were read by the interpreter in my presence, to the chipfu, (prefect,) who, in reply, said: "That there was no necessity for the missionaries ever leaving Tungchow-foo; that he had received orders from the governor-general of the province to receive and protect them; and, furthermore, that he was able to protect them in every way, and that he was willing, and would protect them." He requested that he might be allowed to retain the instructions read to him, which request I granted. I asked him to give me a letter stating that he was willing to and would and could protect the missionaries, which letter he sent off to the ship the next day.

After the audience with the chipfu (prefect) it was so late that the missionaries were not landed until Friday, the 21st instant, when, as I had requested at the interview with the chipfu, a messenger was sent on board of this vessel to invite them (the missionaries) on shore to return to their homes, which had been carefully cared for and protected by the authority of Tungchow-foo since the missionaries had fled. Having concluded the business successfully, and having safely landed the missionaries and their baggage, I got under way at 2.30 p. m. the same day, and arrived at this anchorage off Chefoo at 8.45 p. m.

The missionaries expressed themselves perfectly satisfied with everything that had been done in regard to returning them to their homes, and wished me to visit the shore and walk about the city with the officers of the ship in full uniform, which I declined to do, as, after the promises made by the Chinese officials, I considered it unnecessary, and the Chinese being perfectly willing, and pleased, as far as I could judge, that they had returned. From my interview, I came to the conclusion that there never existed any real danger at Tungchow-foo, but the missionaries were frightened by the threats of some Chinese not in authority. Mischievous persons are found in every community, and Tungchow-foo is not free from this infliction.

The massacre of Tien-tsin capped the climax, and the missionaries left in consequence. The missionaries, in conversation with me on the passage up to Tungchow-foo, complained that their grave-yard had been desecrated, in having some of the tombstones defaced. After the important business of the audience had been disposed of I took the opportunity of stating this complaint to the prefect, who earnestly replied that he would take all means in future to protect them, and to punish any person for any acts of the kind complained of.

Memorandum note from the Prefect Heng, of Tungchow, to Commander Kimberly, of the United States steamer Benicia, stationed at Chefoo.

In the interview held on the 20th instant, between Captain Kimberly and the prefect, Captain Kimberly stated that the foreign missionaries who, apprehensive of violence from the rumors which were circulating, and to which they had given ear, had removed from Tungchow, where now, their fears being dissipated, desirous of returning to and, as of old, taking up their abode in that city. In view of this, Captain Kimberly enjoined upon the resident officials their duty of protection according to treaty stipulations. In regard to this interview, the prefect has to remark that it is the duty of China's officials to afford full protection to the missionaries of all countries who may be quietly pursuing their calling in China, and not to allow them to meet with molestation or interference.

His humble brother Heng Kioang salutes Captain Kimberly.

No. 26.

Mr. Low to Mr. Fish.

No. 51.]

LEGATION OF THE UNITED STATES,
Peking, February 10, 1871. (Received April 26.)

SIR: By the terms of the French treaty of 1858 with China, the time has now arrived for its revision, in case one or both parties demand it. A few months since the chargé d'affaires of France gave formal notice that it was the intention of his government to demand a revision, the particular points of which would be made known at the proper time.

In communicating these facts to me verbally, Count Rochechouart appeared to be anxious to enlist the aid and support of all the treaty powers, so far as practicable, to the end that such modifications of the old concessions might be made, and such new ones obtained as would prove beneficial to all countries having intercourse and commercial relations with China.

Before committing myself to any definite course of action, I asked, as a preliminary step, that he would give me, in writing, a short memorandum of the alterations he thought necessary and practicable, that I might be able to consider the matter intelligently, and, if necessary, communicate with my Government, with a view to asking instructions. He accordingly addressed me a note, in which these points are briefly stated, a translation of which I beg to inclose herewith.

In the conversation referred to, I was informed that, prior to the rejection by the British government of the convention of 1869, an agreement had been come to between France and England, by which joint action would be taken in the matter of treaty revision under and by virtue of the stipulation contained in the French treaty.

What effect the war and the overthrow of the government of the empire may have upon such an arrangement, if made, you can judge of better when this reaches you than I can at this moment.

In order that you may be in possession of my views, based upon the best information I have been able to gather, I beg, most respectfully, to offer some suggestions upon the several points raised by the French chargé d'affaires.

First. The question of audience.

In my opinion, it is unwise to raise or discuss this question until the Emperor attains his majority. The government of the empire being the same now that it has been since diplomatic relations were established at Peking, and as all foreign governments have, up to this time, waived the right of audience because of the Emperor's minority, this course should be continued until a valid reason can be assigned for a change. An earnest attempt to effect a change now would be likely to result in injury instead of benefit.

It would, I think, be quite impossible for the regency to enter into any engagement by which the Emperor would feel bound to grant audience to the foreign representatives at any fixed date in the future. It is doubtful if the Emperor would consider himself bound by such a contract, if made; and any attempt of the kind by Prince Kung and his associates would arouse all the hostile reactionary forces in the capital and in the provinces to resist the innovation.

In considering the propriety of insisting upon this point now, an estimate should be made of the advantages or disadvantages likely to result from an immediate change in the government, and also of an entire change in the *personnel* of the Foreign Office.

If a solution of the problem be insisted upon now, and the Chinese conclude that there is no way of evading or postponing the matter, it would result, undoubtedly, in the immediate setting aside of the regency and bringing forward the young Emperor, a youth scarcely fifteen years of age, to assume the duties and responsibilities of sovereign *de facto*; thus throwing upon him the responsibility of acceding to, or refusing to comply with, the demand. What he would do under such circumstances cannot be conjectured with any certainty.

From the meager knowledge we have of this youth and his surroundings, I infer that he is being trained, in the mode pointed out by Confucius, by tutors who have seen little and know less of foreigners or their relations. It is altogether likely that the views and feelings of these people would, if known by us, be considered anti-progressive and reactionary, and their influence with the Emperor could not be other-wise than harmful.

Their opinions would be sought as a guide instead of those of Prince Kung and the members of the Foreign Office, and when a difference of opinion occurred, the former would outweigh the latter. And, besides, there are to be found in China, as in every other country, men anxious to obtain place and power, who would resort to every kind of artifice and intrigue to supplant the present officials in the good opinion of the Emperor, the result of which, if successful, would be to displace Prince Kung and his associates, and fill their places by new men, conceited and supercilious, ignorant of their duties and obligations. It would require a war and years of experience to teach them what the present officials have already learned.

In view of these considerations, I would advise patience on the part of all foreign governments. It is the part of wisdom to hold fast to the men now in power, until more mature years will insure a sounder judgment to guide the young Emperor, when he emerges from his seclusion to assume the responsibilities of an actual sovereign.

There will be no loss of dignity by continuing for a few years longer the course pursued for the last ten; and besides, if the question be postponed until the Emperor becomes of age, according to his own laws and customs, there will then be a distinct and definite ground for making the claim without regard to treaty, which will be recognized as valid by the civilized world. It will also furnish a plausible excuse, if one is needed, for conceding to a demand which can no longer be postponed or resisted.

But while arguing in favor of postponement, I am entirely opposed to abandoning or giving it up without a struggle.

When the time comes for the Emperor to assume his duties *de facto*, whether it be sooner or later, my opinion is clear and decided that it will be the duty of all foreign governments to demand for their representatives the same rights, privileges, and courtesies that were accorded to the diplomatic representatives of China, when they visited the courts and capitals of Europe and America; and in case of peremptory refusal, I should not hesitate to advise the withdrawal of legations from Peking, and a resort to such other measures as might be found necessary to enforce a compliance with the demand.

If it is expected that the plan now inaugurated shall be carried out—treating China as one nation, and the imperial government as the only responsible power—it is absolutely necessary that the rights, privileges, and immunities of the diplomatic corps, customary in all civilized and enlightened countries, shall be recognized by the supreme authority of China.

No one thing would do more to disabuse the minds of the people of their absurd pretensions of superiority over all other peoples, and of the divine right of the Emperor to "rule all nations, whether within or without." Nor do I believe that a firm demand, made at the appropriate time by all the treaty powers, will meet with a refusal.

There will be no need of elaborate regulations in regard to the forms and ceremonies. A simple declaration to the effect that the usual forms customary in the United States and Europe shall be observed would be ample.

Second. The right to place salaried consuls at any point, either on the coast or in the interior, and that any place where such a consul resides shall be open to foreign trade.

This is a loose proposition, and one that never will be assented to by the Chinese government unless driven by force into submission. Indeed, it is doubtful whether, in the interest of foreigner or native, it ought to be. If M. Rochechouart means that when France or any one treaty power chooses to place a consul at any point other than those already open to trade, the place shall be considered open to the residence and trade of *all* countries having treaties with China, which contain the "favored nation" clause, whether they have consuls or not, does not seem clear. If such is a correct interpretation of his meaning, (and I think it is,) the demand is unjust.

The Chinese government having, by treaty, yielded jurisdiction over the persons of all foreign residents upon its soil, so that it cannot punish them even by fine, it is obligatory upon all treaty powers to provide a mode of punishing their citizens and subjects for infractions of treaty and regulations, and it is but a simple act of justice and good faith that their laws should be made effective for this purpose.

I regret to be compelled to say that a due observance of this portion of treaty obligations has been too much neglected by nearly all foreign governments, of which the Chinese have just cause of complaint. The United States have done as well or better than most governments, (England excepted;) at the same time, candor compels me to say that we have not performed our duty; and if Congress could see clearly the anomalous condition of things where ex-territoriality is claimed and exercised, as is the case here, I feel quite sure there would be no delay or hesitation in providing, through a more perfect consular system, the means of carrying out honestly and in good faith our part of treaty engagements. But if we have failed in part to do our duty, France has done worse. She has salaried consuls at Canton, Foo-chow, Shanghai, Hankow, and Tientsin only, while at Swatow, Amoy, Ning-po, Ching-kiang, King-kiang, Chefoo, Newchwang, and on the Island of Formosa, there are either merchant consuls or none at all. Generally at these ports last named France is entirely unrepresented. It is true that the trade of France is small, amounting only to one per cent. of the aggregate, and, therefore, expensive consular establishments at all the ports may appear to the government quite unnecessary. But if her trade will not justify the expense of consuls at the ports already open to trade, what plausible argument can be urged in favor of sending salaried consuls to other points? England might, with some propriety, urge such a point, but with France the case is entirely different. Nor would France or any other country be likely to agree to keep continuously salaried consuls at such points, in case the demand was acceded to. The selection of any point in the interior for trade would be an experiment, and experience might prove its inutility for the purpose. In case the consul should be withdrawn, would the place where he resided be closed to trade? With such an

understanding in the beginning there would be little inducement for a permanent outlay of capital by merchants in order to test the question fairly, in which case it would rest with peddlers, and not merchants, to determine the eligibility of such points for foreign trade.

I see so many objections to such a treaty provision, and so many chances of its proving a delusion and a snare; that, unless the proposition can be more definitely defined, I should not be inclined to favor it.

If the exact truth could be ascertained, it would be found, I expect, that the whole idea of the French *chargé* in this scheme is the better protection of the French missionaries; and were it possible to obtain the concession asked for, these additional consuls would be, to all intents and purposes, agents of Roman Catholic missionaries. Their official positions and influence would be used to sustain missionary claims and assumptions, some of which have been described in a former dispatch. So far as trade is concerned, it may well be questioned whether the presence of French consuls in the interior would not prove a damage instead of a benefit.

Third. The right to navigate by steam all water-courses that will float a vessel drawing ten feet or more. This, if put in some more definite form, of which it is susceptible, would be a great advantage to foreign trade, and a benefit to China. If granted it would open the Yang-tze River about three hundred miles above Hankow, and possibly the river Han and the Poyang Lake. The former would be quite certain, but of the latter there would be some doubt. Our scanty information hardly justifies a decided opinion upon the question of the navigability of the interior water-courses of this country, their maximum and minimum depth of water, &c.

The carrying trade is one of the most important interests to foreigners, and any concession which will increase it will prove of great value to foreign commerce, and also be a benefit to the natives. The Chinese merchants avail themselves of steam transportation because of its greater speed and certainty, and less risk. This the officials begin to see and appreciate also. An illustration of this may be seen in the fact that during the year 1870 a considerable portion of the tribute rice and grain, which comes from the provinces annually to Peking, was brought in foreign vessels and steamers to Tien-tsin. This is the first experiment of the kind made by the government. It proved so satisfactory that it is expected a much larger quantity will be transported in this way during the present year.

The interests of foreign merchants are chiefly imports and exports of merchandise, and carrying trade on the coast and in the interior. Up to this time the latter is confined to the river Yang-tse from Shanghai to Hankow, and the Pei-ho to Tien-tsin. Beyond these three branches of trade there is little in which the foreign merchant can compete with the native. Experience proves that the Chinese will do most of the local and internal trade, and it is quite according to reason that it should be so. Among themselves there is a credit system, regulated by law and custom, and thus rendered quite safe. As between natives and foreigners, it would be hazardous to the latter; and, besides, the expenses of a native merchant are so trifling that he can conduct a business successfully upon profits that would be ruinous to a foreigner.

In my opinion the extension of trade by steamers, particularly inland, is, on the whole, the most important of all the schemes that are put forward for "opening up" China, and one that is open to less objections than any other. It is even more important to American merchants than the extension of the import trade, and will continue to be until

the cotton manufactures of the United States can compete with those of Great Britain. If any additional privileges can be obtained in the direction indicated, it is worthy of an earnest effort to try and obtain them.

Fourth. A mixed court for the trial of civil and even criminal cases. Several years since the experiment of a mixed court for the trial of offenders accused of petty offenses was inaugurated at Shanghai. It was hoped that experience would prove its adaptability for the trial of grave offenses, so that ultimately ex-territoriality might be given up. Its success thus far, I regret to say, does not warrant any extension of its jurisdiction, or the establishment of similar ones elsewhere.

The laws, customs, and forms of legal procedure, in the United States and England, are so radically different from those of China, that the attempt to form a mixed code for the trial of criminal offenders appears to me entirely impracticable. Even if the Chinese would consent to it, neither England nor the United States could do so with due regard to the welfare of their own people. In our country a person accused of crime is, in law, considered innocent until proved guilty; in China the reverse appears to be the rule. In the United States and England the guilt of the accused must be proven by competent witnesses; in China the accused is examined by the magistrate touching his guilt or innocence, and, in order to get at the truth, law and custom sanction the application of torture for the purpose of extorting truthful confessions. So barbarous are the forms of Chinese law and justice that I should dislike very much to see American citizens charged with crime brought before a court in which any trace of the criminal law and justice of China could be found.

There may not be such radical differences between French and Chinese law and mode of procedure, and for these two countries it may be possible to arrange a mixed code or a mixed court; but so far as the United States are concerned, the thing is practically impossible until this government and this people are much further advanced in our form of civilization.

Fifth. A mixed commission to manage and expend the revenue derived from "tonnage dues."

By this is meant, I presume, that the Chinese government shall place the revenue derived from this source in the hands of a mixed commission composed entirely of foreigners, to be expended in such manner as may seem proper.

It is claimed, with justice, that the revenues derived from this source shall be exclusively devoted to building and maintaining light-houses, light-ships, and buoys, and the removing of obstructions to navigation, although there are no stipulations in the present treaties expressly saying that it shall be done. No practical step was taken in the matter until after all the indemnities to foreign nations were paid up; and as the United States were receiving a portion of this as well as all other revenues collected of their trade, on account of the indemnity due, it was difficult to take any step in urging the light-house matter upon the Chinese. I presume Great Britain and France were similarly situated, but of this I am not certain.

In 1867, this whole matter was placed in the hands of the inspector general of customs, who has had the entire management of it up to the present time. Several new light-houses have been built under his direction, and others are being constructed in England, or are on their way out. Whether all is being done that can be, with the means applicable for the purpose, or not, I am not aware. I am satisfied, however, that

a good start has been made in a systematic and proper manner, and, unless it can be shown more clearly than I think it can be that Mr. Hart is not doing his duty faithfully, I should prefer to let the matter remain in his hands rather than intrust it to a commission.

The revision of the "three or four articles," for the purpose of making them plainer, in which France alone is interested, refers, I presume, to the discrepancy in reference to the rights of missionaries, particulars of which were sent in my dispatch No. 40. In that matter no advice or aid of other nations will be asked or accepted if offered.

It is but natural that France should not desire to open the tariff to revision. The only thing in the trade in which that nation is interested is silk. The basis upon which the present tariff was arranged and settled was an average of five per cent. ad valorem. A specific duty was agreed upon for several things, silk among the number. The increase of the value of this article since the tariff was made has, however, reduced its rate of duty to about one-half of the rate agreed upon as equitable; hence it is for the interest of the French to let the tariff question remain without any disturbance.

To sum up the whole matter, there is nothing in the present scheme, as indicated by the French chargé, for treaty revision, in which the United States has any interest, or which would prove of any material advantage, except the extension of inland steam navigation. The audience question and the protection of French missionary interests are the only questions in which France has any special interest. The other claims are put forward to enlist the sympathy and aid of other countries in the revision, hoping by their aid to gain concession, which would add to her prestige and political advantage in this part of the world.

I have, &c.,

FREDERICK F. LOW.

[Translation.]

PEKING, January 28, 1871.

M. LE MINISTRE: You have expressed a desire to know the demands which I have engaged my government to make from the Chinese government when the treaty of 1858 is revised. I have no objection to satisfy you, for I believe that the alterations are indispensable, and I shall be happy to learn that the other governments allied with China have decided also to demand them.

I place the solution of the question of the audience with the Emperor first, and the arranging a treaty of etiquette regulating the details of our official life in a manner honorable to our governments and to ourselves.

Second. I demand that we shall have the right to place salaried consuls wherever we judge proper, and that those cities where consuls reside shall also be opened to foreign trade.

Third. I demand the right to navigate with steamers all water-courses which will float a vessel drawing at least ten feet.

Fourth. I demand that a mixed code shall be adopted, by which commercial and civil cases, and even criminal, too, which may arise between the French and Chinese, shall be judged.

Fifth. Lastly, I demand that some change shall be made in the application of the tonnage dues. It would be well if the management of these revenues were intrusted to a mixed commission, as is the case almost everywhere else in the East.

In some things, relating to France alone, I ask that a clearer interpretation shall be adopted of three or four articles in our treaty, in the meaning of which there is some confusion. The motives which have led me to these conclusions are rather too long to be explained now, and, moreover, are all contained in a report which I addressed to my government on the 1st of July, a knowledge of which I am quite sure it would give most willingly. I may add, however, that if I have said nothing about the tariff, it is because I think it is now very liberal, and that it would be impossible, without injus-

tion, to force the Chinese to reduce it more, and that to raise this question is to run a risk of exposing one's self to counter demands as equivalents.

Receive, sir, the expression of my devoted regards, and high consideration.

ROCHECHOUART.

No. 27.

Mr. Fish to Mr. Lou.

No. 37.]

DEPARTMENT OF STATE,

Washington, March 20, 1871.

SIR: This Government received, with great satisfaction, in the year 1868, evidences that the government of China, appreciating its importance to her own shipping and that of foreign nations, was desirous of establishing a proper and sufficient system of light-houses upon the coasts of the empire; and at the request of the inspector general of customs, Mr. Robert Hart, a complete collection of the drawings, maps, plans, and documents, illustrating the principles of construction, and the location and maintenance of light-houses of the coasts of the United States was carefully arranged, bound, and forwarded to the minister of the United States in China, by whom it was presented to the proper authorities of the Chinese government. A dispatch of the 13th of January last from George F. Seward, esq., the consul general of the United States, at Shanghai, which was accompanied by charts and a list of the lights in course of construction, erection, or alteration, on the coast of China, presents clearly the progress made and the actual condition of the light-house system, from a consideration of which this Government is led to apprehend that the measures which have been adopted by that of China are inadequate to the necessities of a commerce which brings wealth to her shores and stimulates to profitable activity the industry of millions of her people, and are not commensurate to the amount of tonnage duties paid by the commercial vessels of foreign nations to the government of China, with a view to its expenditure in perfecting and maintaining this important service.

It is believed that this state of things is due mainly to the facts that the foreign trade of China is of recent origin, and its benefits to the revenues, resources, and welfare of China are yet hardly appreciated by the government and people thereof at their true value; and that they have not given due consideration to the obligations of hospitality and humanity resting upon all nations having extensive sea-coasts to provide all possible safe-guards to the shipping of other countries engaged in friendly commerce in their waters.

Independently of this latter consideration, a regard for their own interests should induce the Chinese authorities to make provision for the ample development and maintenance of a thorough and extensive system of coast lighting. To illustrate the magnitude of those interests, it is only necessary to bring properly before them facts derived from their official returns of trade at the treaty ports, according to which foreign nations engaged in commerce in the year 1869 with China contributed to the revenues of the empire in exports, imports, and other duties 9,643,201 taels.

This large sum is actually paid by commercial nations into the treasury of China; but it is by no means the greatest material benefit conferred upon the empire by the foreign trade. The constant and increasing demand for the teas and other natural productions, as well as for the various useful articles which give employment to the industry of

the people of China, and the importation into China of many productions and manufactures entering into daily use and consumption by the people, which can only be derived by them from beyond the seas, constitute an economic exchange, the benefits of which such eminent statesmen as his Highness Prince Kung and others connected with the imperial government must be too wise to underrate. The same official returns before referred to show the nature of this trade. According to those returns the value of the articles exported from China to foreign countries in 1869 were one hundred and seventeen million nine hundred and fifty-one thousand nine hundred taels; and the value of articles imported into China from foreign countries is sixty-nine million eight hundred and seven thousand nine hundred taels.

Mr. Seward, in his dispatch before referred to, informs the Department that there has been a very considerable reduction in the corps of officers originally organized under Mr. Hartis's plan; that the marine commissioner, Captain C. S. Forbes, who has been at the head of the corps, has become annoyed at the contraction of the staff of his department, and is about to return to England; and that he informed Mr. Seward that it would require two or two and a half years to place the material now on hand or ordered; and that one or two engineers are urgently required for the work. He also informed Mr. Seward that he considered it essential to the proper progress of the work that a successor to himself should be secured. Mr. Seward proposed to take an early occasion to invite your attention and that of Admiral Rodgers to the propriety of urging upon the government at Peking the need of their appointing a chief for the department, and the engineers declared by Captain Forbes to be requisite. Captain Forbes informed Mr. Seward that to complete the works already undertaken from thirty to forty thousand pounds sterling would be required.

Mr. Seward expressed the opinion that this money will not be provided by the Chinese government with reasonable rapidity, unless the ministers make urgent and continual representations in the matter. He states that the government might provide the amount and enough more to carry the original plan to completion within five years without expending the whole of their current receipts from tonnage dues, which branch of their revenue is nominally levied to support, and is properly applicable to, such works.

I will thank you to take this subject into consideration, and to give the Department the benefit of your opinion upon it. If you agree with Mr. Seward as to the expediency and propriety of the course suggested by him, you are authorized to urge the Chinese government to make the appointments and to devote the tonnage duties referred to to the work, so far as it may be necessary to its energetic prosecution.

The general interest of the other maritime powers in this important subject will render it proper for you to make known to their diplomatic representatives the course which you may adopt, and to secure their co-operation if possible.

I am, &c.,

HAMILTON FISH

No. 28.

*Mr. Low to Mr. Fish.**

No. 56.]

LEGATION OF THE UNITED STATES,
Peking, March 20, 1871.

SIR: In my No. 52, of February 20, reference was made to a communication I had received from the Foreign Office in relation to the missionary question. I have now the honor to inclose a translation of that document, together with my reply. The memorandum was drawn up by Wantsiang, one of the oldest and by far the ablest of all the Chinese ministers. He has had more to do with, and therefore understands better, the actual relations of China with foreign nations, than any of his colleagues, and is, I feel sure, anxious to prevent disturbances that may lead to international troubles. That he is sincere in his professed anxiety about the future, no one well acquainted with the real condition of affairs here will question; although it is not impossible that his fears are overstated for the effect such declarations may exert upon the foreign legations, and thus tend to bring about some kind of a compromise which will be useful in the future management of the missionary matter. My opinion that these apprehensions of future danger are genuine, and that this paper is not put forth at this time simply to try and protect themselves against further demands that the French government may make in the treaty revision which is soon to take place, is confirmed by the fact that about two years ago, this same Chinese minister addressed a private note of a similar character to the British minister. A copy of that note I have just now obtained, a translation of which I beg to send herewith. The answer of Her Majesty's minister to the note I am not able to give, as it was made verbally, and not in writing. A careful reading of the memorandum clearly proves that the great, if not only, cause of complaint against the missionaries, comes from the action of the Roman Catholic priests and the native Christians of that faith; although the rules proposed for the government of missionaries apply equally to Protestants and Catholics. What reply to make, in view of the complication of the question, and the circumstances with which it was surrounded, did not seem quite clear. I would have preferred to have taken the President's instructions before sending an answer, could they have been obtained within any reasonable time. To simply acknowledge the receipt of their note, and say that instructions had been asked for, would involve a delay of four or five months, and this delay would perhaps raise a hope, which could not be otherwise than illusive, that some at least of their propositions would prove acceptable. To reply and admit what I really believe to be true, that the Chinese have some ground of complaint, without being able to suggest a practicable remedy, would

* This correspondence has been transmitted to the ministers of the United States in London, Paris, Berlin, St. Petersburg, Vienna, and Rome, with similar instructions in each case. The instructions to General Schenck were as follows:

"DEPARTMENT OF STATE,

"Washington, October 30, 1871.

"GENERAL: I transmit herewith for your information, and for the information of the British government, the copies of a correspondence between Mr. Low, the minister of the United States at Peking, and this Department. You will transmit one of these copies to Lord Granville.

*"I am, sir, &c.,**"General ROBERT C. SCHENCK."*

N 7 F R

"HAMILTON FISH.

only do harm, and render the situation still more insecure; to simply say that, as their complaints are against the Roman Catholics, it is a matter which concerns the French alone, with which other nations have nothing to do, would have the effect to defeat what the other treaty powers have been anxious to bring about, viz, that when the Chinese have difficulties with one foreign nation, which are likely to involve all in trouble, they should frankly state their case, to be judged of by all, and in this way bring the force of an enlightened public opinion to bear upon the action of any government that attempts to oppress or deal unfairly. After carefully considering the whole question in all its bearings, I deemed it my duty to reply, without waiting for specific instructions. This I have done at some length, reviewing somewhat in detail the several points presented, reasserting the intention of the Government of the United States to claim for all its citizens entire exemption from the operation of Chinese law, and disclaiming any intention of screening natives from the obligations which they are under to their own laws and officials, pointing out the impracticability of many of the proposed rules, and suggesting personal discussion of this as well as all other matters of dispute. Had they stated their complaints in brief, without circumlocution, and stripped of all useless verbiage, they would have charged that the Roman Catholic missionaries, when residing away from the open ports, claim to occupy a semi-official position, which places them on an equality with the provincial officer; that they deny the authority of the Chinese officials over native Christians, which practically removes this class from the jurisdiction of their own rulers; that their action in this regard shields the native Christians from the penalties of the law, and thus holds out inducements for the lawless to join the Catholic church, which is largely taken advantage of; that orphan asylums are filled with children, by the use of improper means, against the will of the people; and when parents, guardians, and friends visit these institutions for the purpose of reclaiming children, their requests for examination and restitution are denied; and lastly, that the French government, while it does not claim for its missionaries any rights of this nature by virtue of treaty, its agents and representatives wink at these unlawful acts, and secretly uphold the missionaries. If the opinions of the Chinese officials could be stated in a direct and courageous way, instead of proposing rules for the governance of missionaries, they would demand a revision of the treaties by which the right of extraterritoriality would be withdrawn from missionaries when they go beyond the places open to trade where foreign consuls reside. This is really what they mean, although they do not state it specifically.

I do not believe, and therefore I cannot affirm, that all the complaints made against Catholic missionaries are founded in truth, reason, or justice; at the same time, I believe that there is foundation for some of their charges. My opinions, as expressed in former dispatches touching this matter, are confirmed by further investigation. But while I see clearly the difficulties and dangers, candor compels me to say that the remedy seems to lie outside and beyond the scope of affirmative diplomatic action. Neither will sound policy, nor the moral and religious sentiments of Christian nations, sanction any retrogression, although trade and commerce might be promoted thereby; nor will the dictates of humanity permit the renunciation of the right for all foreigners that they shall be governed and punished by their own laws. But while insisting firmly upon these rights, all foreign governments should see to it that no claim be made by their officers, agents, or subjects, for an extension of their laws over the Chinese. They should also see that their treaties are

honestly and fairly construed, claiming no rights which come of fraud, and conceding nothing that a just construction will grant. That a strict non-interference between native Christians and their rulers will subject the former to persecutions is possible, and even probable; but whether this course will not in the end subserve the cause the missionaries are laboring to promote better than the opposite one, is the question. I think it will. One has the sanction of treaty and law; the other is in violation of both. The remedy, so far as it lies in the power of foreign governments, is with France alone; and it behooves that power, for the sake of its own interests, as well as for the welfare of all foreign residents, to remove all just causes of complaint of the Chinese. Whether this can reasonably be expected depends upon the form and composition of the new government of France, and also upon the character of the representative which that government may send here.

Trusting that my action, as herein detailed, may meet with the approval of the President,

I have, &c.,

FREDERICK F. LOW.

[Inclosures.]

No 1. Note and memorandum from Wán-tsiang and Shin-kwei-fan to Frederick F. Low, February 13, 1871.

No. 2. Mr. Low's reply.

No. 3. Note from Wán-tsiang to Sir Rutherford Alcock, late British Minister to China, June 26, 1869.

Wán-tsiang and Shin-kwei-fan to Mr. Low.

• FUNGCHI, 9th year, 12th moon, 24th day, (February 13, 1871.)

SIR: In relation to the missionary question, the members of the Foreign Office are apprehensive lest, in their efforts to manage the various points connected with it, they shall interrupt the good relations existing between this and other governments, and have therefore drawn up several rules upon the subject. These are now inclosed, with an explanatory minute, for your examination, and we hope that you will take them into careful consideration.

With compliments, cards of

WÁN-TSIANG.
SHIN-KWEI-FÁN.

His Excellency FREDERICK F. LOW,
&c., &c., &c.

MINUTE.

When the treaties between China and foreign countries were arranged, it was hoped that they would be advantageous to both parties and remain unaltered for a series of years. The stipulations which were then agreed upon by treaty have been since tested in all their bearings; and not only has it been shown that some of them cannot endure the trial, but already are they found to be inadequate to answer the exigencies which have arisen. In commercial matters, no serious causes of strife have ever arisen between this and other countries; but in respect to missionary operations, many and great difficulties have been continually coming up. When these operations were commenced, it was asserted that the object of missions was to exhort men to be good; but the propagation of the Roman Catholic faith in China among the people has been attended with constant troubles. Seeing that no satisfactory arrangement of these has been reached, it is now of the first importance to adopt some measures which will bring these causes of dispute into some kind of harmonious and permanent settlement. This question has in reality a close relationship to the maintenance of peace and friend

ship between China and foreign countries, and remotely even to the continuance of their commerce. This arises from the fact that it invariably happens among members of the Romish faith, that wherever the missionaries commence their work in the country the former get into quarrels with the people, which year after year come before the courts, and cannot in any way be amicably adjusted so as to maintain the peace. All this has, we think, long been known to your excellency. When the religion of the Lord of Heaven first came into China, it was known as the *Si Ju*, i. e. [the doctrine of] the Western Literati, and those who joined the sect for the most part quietly maintained their tenets; but those who have embraced it since the adoption of the treaties have been very largely of a disreputable character. This has caused people to regard with contempt the assertion that these doctrines are intended to reform mankind, and they are, consequently, totally disinclined to accept them. On the other hand, those who have joined them are led to trust much to the position and power of the missionaries, and misuse and oppress peaceable people. Such conduct still more embitters men's minds against them, and prepares the parties for reciprocal dislike, which ere long culminates in open strife. The matter then comes into court, and the local authorities try to adjudicate it. The missionary takes sides, screens and helps his partisans, and this encourages the converts to oppose their rulers, which in turn stirs up the people the more against them all. From this it will surely come to pass that among the multitudes of disaffected men who are ready to foment rebellion in the land, criminals, litigious pettifoggers, and shysters who make strife, many will seek the shelter of the sect to create trouble. The popular indignation is already very deep, and will grow into a settled hatred, and this hatred will ere long break out into open enmity.

The people at large are ignorant of the distinction between the Protestants and the Romanists, but regard all [Christians] as belonging to the latter sect; just as they are unaware of the number and names of foreign countries, but look upon all persons from abroad as simply foreigners. If a riot should break out, therefore, every stranger in China would be exposed to the same peril. It would then extend to other provinces, whose people, though having themselves no cause of strife, would yet cherish aspirations from what they heard. How, under these circumstances, would it be possible to prevent serious disturbances rising into open violence? It is true that there is a great difference between these sects, and a fact that each foreign nation has its own name; and it is not for want of repeated orders and instructions on the part of government that the people do not know this, but it is impossible to reach every house and hamlet.

During the past ten years, while the Prince and his associates have had the charge of affairs, this subject has been a cause of daily anxiety. The startling outburst at Tien-tsin last summer showed how the thing works. The guilty officials in that affair have been punished, the murderers have been executed, and an indemnity paid to the bereaved families; but all these steps to close it and do justly have by no means dissipated the anxiety which fills our minds lest the people and the Roman Catholics should again come into open conflict. If the course of action at Tien-tsin is to serve as a precedent in future, then greater difficulties will be experienced in repressing such risings, and every successive quarrel will become more and more exasperating and savage. In trying to look at the present aspect of this whole question, one is led to ask, how can the two parties be brought to live at peace? It seems to be plain, judging from the cases arising in the provinces, that the influential cause has really been the irritating conduct of the native Romanists, though it is granted that the people too, on their part, have cherished revenge and wreaked their anger on them. These cases do not seem likely to be settled amicably by the provincial authorities; but if, when they are brought before the native and foreign high officials, (at Peking or elsewhere,) these, knowing the acts of the Romish missionaries and their converts, decide them unjustly and without regard to the feelings of the people, and decline to agree to some rules for preserving peace and preventing evil, then, when there is an outbreak some bright morning, foreigners will only think how that single affair can be most quickly settled. They will not care at all whether the people consent to such proceedings, and only think how they can best put down the disturbance by the strong arm; and this course will influence the local authorities to do their best to settle it some way or other. If no well-understood mode of action can be agreed upon, and only temporary expedients are devised for a present exigency, then no permanent harmony can be thought of. If, while we at this time desire to discuss the causes and difficulties of this subject with foreign governments, in order to agree on some plan which will bring a lasting and advantageous settlement, they firmly refuse to discuss it in an impartial manner, there is no help. In such a conference, if one side desires to bring forward some impracticable rule and force its adoption, or make it a reason for declining to do anything, that course will most plainly show that he has no earnest desire to come to any arrangement at all.

It is the sincere desire of the Prince and his colleagues, in view of this whole question in all its bearings, to maintain peace with all foreign countries, and perpetuate the present friendly status; but, to this end, some discussion as to the mode of arrang-

ing it is indispensable. It is our belief that, in all western countries where missionaries live among the people, there must be some reasonable course agreed upon by which they can live together in harmony, and that this is the reason why the teachers and professors of Christianity do not desire to raise causeless trouble. We have heard it stated that in whatever country missionaries reside they obey the laws and customs of that country, and are not permitted to assert their independence of them. Whoever resists the laws of the land, or opposes the rulers; whoever takes upon himself power, or encroaches on the rights of others; whoever causes scandal to the reputation of families or persons; whoever maltreats people, or damages them in any way; or, lastly, whoever excites suspicion in the minds of others, and thereby ill-will and hatred are stirred up through the community; in short, whoever commits any illegal acts of this nature, is forcibly restrained. Therefore, those who build churches and preach Christian doctrines in China should chiefly take pains not to provoke the suspicion and dislike of the native gentry and people, but act so that mutual confidence may be strengthened. If this were done, they could easily arrange matters, and all would go on well; the two classes living side by side in friendly relations, and no attempt made to destroy churches and chapels. If the Romish missionaries will permit what properly comes into their calling to be usually known openly and fully by the people at large, the latter will then have no grounds for maligning and opposing them. Further, if they refuse to do what their converts wish them to do, and do not interfere with the jurisdiction of the local rulers, or trust to their power to carry their own ends against all opposers, a course which can only draw on them the angry hatred of gentry and people, then will the common people live at peace with them, and our officials will protect and defend them. If all the unlawful and irritating acts which have come to the ears of the Prince and his colleagues, as having been committed by Romish missionaries now in China, be true, then it cannot be denied that there is in this empire what amounts to a countless number of independent and uncontrolled hostile states. Can any man imagine that it will be possible long to maintain peace under such a state of things, and prevent both our officials and people from hating them cordially? We candidly say that we know of no way of preventing such a calamity. We fear, wherever the ignorant converts learn how the Tien-tsin affair has been settled, that their spirits will rise to greater excesses, which will stir up greater strife, and their vain boasts will arouse the bitter hatred of the common people to a more deadly degree, till the smothered irritation suddenly bursts out into riots and outrages. The local officials will be unable to manage such a flame; the high provincial authorities will find it too strong for them; and even the Foreign Office will be powerless to restrain and punish. If the Chinese people become of one mind on this point, and rise against these secretaries, then, though the Emperor himself send his high officers with troops to punish the offenders, it will be impossible to exterminate the people. Much less, when the rage of great multitude has been aroused, will they be inclined to quietly allow men to be executed. If at such a crisis the affair could not be restrained, and the two parties led to see that it was possible for them to live in harmony, then things have come to a bad pass; and the high officers to whom pertains the conduct of the relations between this and other countries cannot relieve themselves from great blame. The most vital point in happily conducting any business between two states is to get the good will of the people; for if this be not done, and one tries to coerce them, they will some time or other resist, and the highest powers of the state will find themselves unable to control this popular sentiment. If those in China, to whom the highest affairs of both parties have been intrusted, can now do nothing to restore harmony and prevent disasters, they should surely know that foreigners living among the natives and traders of every nation may ere long be in the midst of great peril. If they together cannot agree upon some mode of regulating this matter, it is clear that henceforth it will be impossible to regulate anything. The desire of the Prince and his colleagues to preserve friendly relations between this and other countries is so earnest that they now present eight rules, which they have drawn up as a means to this end, and inclose them for your excellency's perusal, as well as to the other foreign ministers, desiring that the same may be fully examined.

EIGHT RULES, WITH REMARKS.

Rule first.

The establishment of asylums for training up children by the Romanists has hitherto not been reported to the authorities; and as these institutions are carefully kept private, this management continually gives rise to suspicion and excites ill-will. The best way to remove this feeling of mistrust among the people would be to close all foreign asylums. But if this cannot be done, let the names of those among the converts who are shown to be unable to rear their own children be reported to the local officials, giving the names of the children, the day they were taken into the asylum, and when they were sent home, or whether any other person had adopted them for their own children. By

this means all the facts would be known. The children of natives who have not become Roman Catholics can be cared for by persons selected from among the gentry by the local rulers, under the direction of the provincial authorities. Each class will thus do its own good work in this line, and all suspicion will be allayed.

NOTE.—It is the rule in China that the conductors of foundling and infant asylums shall report all particulars concerning those who are received or discharged to the local authorities. The relatives can always come and see the children at the asylum afterward; when they have grown up, it is allowable for childless people to adopt them, or for their parents to take them home. Whatever might have been the sect they belonged to, they still adhered to it; for it was considered to be a good work enough to carefully nurture the children in the asylum. We have learned that the rules in other countries respecting such institutions are similar to those in force here. It is only those established in this land by foreigners which are not so regulated. In them, the time when the children are received is not inquired into, nor is any report made to the officials; nobody is allowed to adopt them after they enter, nor can their own parents ever reclaim them, nor even see them afterward. Is it surprising that such things excite suspicions among the people? It is on these grounds that, though it has been fully proved, since the riot at Tien-tsin, that there was in that city no gouging out of eyes, or cutting open hearts, even to this moment people retain their former fears and suspicions. It is indeed possible to stop their mouths, but no one can quiet their apprehensions; and who can assure us that another outbreak will not be caused by their mistrust? If the asylums now under the control of foreigners could be all closed, and they do all this good work in their own countries, then all the children of China needing this care could be reared in native establishments, of which there are many in every province. Why need foreigners trouble themselves about this work? for in showing that they have good desire to relieve the poor, they only arouse suspicion and ill-will. Therefore if each party would attend, in this respect, to their own modes and spheres of actions, it is quite certain that amicable relations would be less likely to be endangered.

Rule second.

Chinese women should not be permitted to enter churches and chapels, nor foreign women to propagate the doctrines in China; in order to exhibit the reserve and strict propriety of the tenets of Christianity, and prevent all reproach among the people.

NOTE.—Among the Chinese, the unsullied reputation and modest demeanor of females is very highly esteemed. The rules for separating the sexes are very strict, both in regard to their personal intercourse and the seclusion of their apartments. Since these requirements have been relaxed by the Romanists, women and girls go into their churches, which surprises all who hear of it; in these missionary-halls men and women are not separated, and when they remain there a long time, the people are led to despise them, and suspect that everything there is not altogether as proper as purity requires.

Rule third.

Missionaries residing in China ought to conform to the laws and usages of the empire. They ought not to be permitted to set up an independent style and authority, nor should they resist the laws of the land, and oppose the orders of its magistrates; they should not assume power, nor encroach on the rights of others, injuring their reputation and causing scandal in communities. They should not misuse or oppress the people, acts which lead men to suspect their designs, and provoke the indignant hatred of all classes; nor, lastly, should they malign the holy doctrines of the Chinese sages, and thus arouse public resentment. Every missionary ought to come under the authority of the local magistrates, therefore, in all these respects. Native Roman Catholics should be placed in the same position under the laws as other Chinese; and except in the contributions to theatrical plays and idolatrous processions and festivals, from which they are exempt, they are bound to perform their quota of public labor and calls for corvée and other services from the local magistrates. Still more are they required to pay their part of public taxes in money and kind, and their faith cannot be in the least degree pleaded as a reason for not paying their rents and assessments. In all these things, foreign missionaries are not to protect them or abet their resistance. Cases at law arising between the people and the converts are to be examined equitably, and then decided entirely by the local magistrates. No missionary can be permitted to take sides in them as a partisan, nor shall he conceal a plaintiff or defendant, when they are converts, and prevent their appearance in court, in order to embarrass the matter, and prevent its settlement. If he overpass his station, and interfere in this manner in legal affairs, the officials can send his letters or reports of his personal application to the high provincial authorities for transmission to the Foreign Office, and if the thing is proved the missionary shall be deported. In all cases connected with marriages, tenelements, and lands, coming into court from among the Roman Catholics, if they endeavor

to make their cases succeed against the people by the representations of the missionaries on their behalf, they shall be liable for doing this to heavier penalties from their own rulers.

NOTE.—In China every person belonging to the literary class, or who takes up the profession of a Buddhist, or Taoist priest, or even the Lamas, which do not belong to any strictly Chinese sect, all, without exception, obey the laws of the empire. Each member of these sects submits to the decision of the magistrates in all matters of right and wrong in which he may be interested. We are informed that in other countries, missionaries, living among the people, everywhere conform to the laws and usages of the land. They are not permitted to set up an independent style and authority, resisting the laws of the land, and opposing the orders of the magistrates. They do not there assume unauthorized power, nor encroach on the rights of others, injuring their good name and causing scandal; nor do they oppress and insult people, leading men to suspect their designs, and provoking the indignation and hatred of all classes. It is, therefore, but right that missionaries who come to China to practice their profession should, in these respects, be amenable to the authority of the magistrates. Is it not altogether out of their proper position for them to exhibit such hauteur and pride, and dispute precedence with the officials, as they do? Those natives who profess this creed, having always been Chinese subjects, are still more bound to observe their proper duties, seeing that they noways differ from other people. They ought, most assuredly, to live in friendly relations with their countrymen, whether in town or country, and cultivate that spirit of neighborly regard which is seemly; and whenever an occasion arises demanding united effort to accomplish some public work, or it is necessary for the whole village to join its men and means to effect an object, then, for them to cast about how they can avoid doing their share, and escape their obligations because of their faith, is to prejudice for themselves their own rights. Can they be surprised if others sharply judge their claims too? In all cases where they resist the payment of taxes, refuse to do government work, interfere with the orders of magistrates, or insult and oppress the people, the foreign missionary has no right to make himself a party to the case. Some of the converts are perverse and lawless men; and to secrete such fellows so that they shall not be delivered to the authorities for just punishment is really a most heinous offense. Every man who joins the Romish Church desires to be protected: and in the provinces the missionaries take up all cases of complaint in which converts are implicated, and go into court to protest and interfere before the officials. There was a case in Szechuen, in which some women belonging to the church deceitfully refused to give up the crops of their land for rent, according to contract; and when the landlords asked it, they rose against the people and killed and wounded several. The French bishop presumed to issue his decision in the matter, and to this day none of these women have been examined or expiated their crime, which has, ever since the occurrence, greatly irritated the people of that province.

In Kweichan Province the Romanists always designate themselves as belonging to the Roman Catholic Church, in every paper which they present in court in cases wherein they are parties, expecting thereby to get some help to succeed. Everybody can see how such a course only adds to the bitterness and trouble. Furthermore, in all parts of the land, whenever a betrothal has been arranged between two families, if one of them subsequently joins the church, but the other does not, then the former compels the latter to break the engagement and cancel the marriage. Sometimes, in a family, the father or elder brother joins, while the son or younger brother does not; whereupon, the father reports his son to the officers as disobedient, and the elder brother denounces his younger brother as insolent; and the missionary takes part in such affairs and helps his people. The irritation which a variety of such cases as those now adduced has produced among the people is intense.

Rule fourth.

The laws which govern foreigners and natives living together ought to be calculated to promote mutual peace and bear equally on each. For instance, in cases of a serious nature involving life, the law should require life to be forfeited; each side to punish its own criminals according to its own laws, that the feelings of justice in men may be satisfied. Whether it be the native or foreign official who judges the case, let him simply decide its criminality as it comes before him: and after that has been done, let there be no further examination as to the amount of compensation or indemnity to be paid. Still more, let it be settled that each case is to be confined to its participants, and no one is to be allowed to demand that the gentry or traders, who had nothing to do with it, pay an indemnity. When an official tries a case wherein Romish converts and natives are involved, whichever of these two parties are proven to have been the aggressor in wronging the other, let the same law apply to all, and the same sentence be meted out to each, so that no partiality be exhibited. Whenever a Romanist is arrested for any misdemeanor that involves a breach of the laws, whatever the offense may be, he shall be examined by the local authorities. If he be accused by others before the courts, he

shall, as the law provides, be seized and tried; and in neither case shall a missionary be permitted to protect converts from just sentence, or hinder their appearance before the authorities. In all cases where it can be shown that the missionary has screened persons in this way, or tried to thwart the orders of the officials, not only shall the real criminals be punished as the law directs, but the missionary himself shall suffer the same punishment for having resisted the course of law; or, if this cannot be, he shall be deported.

NOTE.—The missionary Mabileau was killed in a riot in Szchen in the year 1867. The authorities had arrested a man named Yen, who, being proven to be guilty, was executed for the crime. But the missionary M. Mihière persistently declared that the gentry had stirred up the quarrel, and forced them to pay an indemnity of 80,000 taels. The fact is, that the row was caused by some ignorant poor men, who suddenly broke out into these violent acts; but to turn around and compel quiet scholars of respectability and wealth to pay so much money has, with other high-handed acts, provoked deep indignation.

Again, when the missionary M. Rigaud was killed in a riot in the province of Szchen in 1869, there is not the least doubt that it was caused by the acts of the converts in compelling certain persons to annul a marriage contract. The governor general, Li Hung-chang, and the Manchu commander-in-chief, Chung, jointly examined into the affair, and they have long since condemned and executed Ho Tsai by decapitation, and Lin Fuh by strangling, proven to have murdered the missionary and converts. But [while the government did this] the converts who killed their countrymen, two men named Wang Hiah-ting and Chang Tien-hing, who, for several years, had been carrying on such a system of extortion, ravishing, plundering, burning, and killing, that they were long known as *head rascals*, have never yet been brought into court, although their crimes have been proved. In another instance the native priest, Tan Pu-chin, who headed a mob that killed Chao Yung-lin and over two hundred others in a haulet, where they were surrounded, has, we are now informed by the missionary, M. Mihière, gone beyond sea, and there is no clew by which he could be traced. These things have still more aroused the hatred of the people of Szchen.

Rule fifth.

Whenever a French missionary goes to any province to preach, the passport given to him should state the names of the province and prefecture to which he is going with great explicitness. If it mentions that his mission work is in a certain province, he should not be allowed to avail himself of the passport to secretly go elsewhere; and if it plainly describes the name and other particulars of the holder, he should not be permitted to turn it over to another man when he pleases. When he passes the barriers and customs-stations, such a passport should not enable him to take dutiable goods through, to the loss and detriment of the revenue. On reaching his place of destination, he ought to present the passport to the local officers for verification. If they find that the name and the place, as given in the passport, do not tally with the bearer, or that it has been passed over to a Chinese convert to enable him to act as a missionary, in either case the passport shall be defaced and canceled. If it be further ascertained that money has been unlawfully paid for the transfer of the passport, or any other illegality has been connected with it, the pretended missionary shall be severely punished, and the foreign missionary sent out of the country. The name and surname of the missionary who holds a passport shall be written in Chinese characters, and these alone shall be regarded as evidence, so that he may be readily recognized wherever he goes. If the holder returns home or dies, or if he changes his calling and no longer preaches, then the passport should be returned to the Chinese to be canceled. In whatever province or place insurrection exists, it is forbidden to issue passports to foreigners to go to those regions, and therefore, hereafter, when a missionary shall request a passport for a province in which military operations are carried on, its delivery shall be suspended, in order that the real purpose of a passport (*i. e.*, a paper to protect one) may be manifested.

NOTE.—In the record of cases connected with missions in Kweichau Province, there appears the name of the missionary Chao, but in the Foreign Office there is no record of a passport having been issued to a missionary of that name to go to Kweichau. In his note respecting it M. Déveria, the interpreter, [at the French legation,] says: "I have examined the old records, and find that there was a priest named Chao who died from the effects of his wounds; but the man here meant is a man named Jui-lo-sz, who obtained a passport on the 16th of August, 1865, and was therein wrongly named Chao." It appears that on that day passport No. 325 was issued to a man named Jui-lo-sz to go to Szchen, but in the list for Kweichau there are no persons named either Chao or Jui-lo-sz to be found. If, therefore, the names and surnames of missionaries and their destinations be mixed and changed in this manner, how can any trust be reposed in the passport as a surety for protecting its holder? In another case a missionary, M. Spilngaert, [he who killed a Russian,] after acting in that capacity

became a servant in the Prussian legation, but the passport granted at first was never afterward returned to this office. If passports can be thus inconsiderately transferred to other persons, or carelessly left to fall into other people's hands, not only shall we have many troubles arising from persons assuming false names and characters, but if they get into the hands of brigands or thieves, the injury done to the reputation of His Majesty will be very serious; and where, then, will be the good name of the church?

Rule sixth.

The object of a missionary being to exhort men to reform and become good, he ought, before receiving a man into his church, to carefully inquire into his character, and learn whether he has been convicted of crime or any evil deed, and then accept or reject him, according to the facts. If he be accepted, then it should be so stated in the titling-list of the place where he resides, just as is done with the members of monasteries and temples, so that evidence may exist upon the point. The number which each man can receive into the church should be limited, and he ought to report distinctly to the local magistrates on what day, month, and year he received each member, what had been his previous occupation, and that he had been convicted of no crime, nor taken an alias. In this way it would be easy to trace each person. If the member died or went away, this should likewise be reported. If no heinous misdemeanors can be alleged against a man when he is received, yet supposing he commits crimes after that date, he ought immediately to be excommunicated, and the same reported. Every month, or every quarter, the record of all these things should be made known to the local authorities for their inspection, just as is done by them with nunneries, temples, and houses of Buddhists and Taoists. By this monthly or quarterly examination the reputation of the Roman Catholic sect will receive no injury, but its members will, on the contrary, be able to live at peace with all.

NOTE.—In 1866 the governor of Kweichan reported that in the district of Kwei-ting several brigands, headed by one Yen Shih-pao, had combined with two Roman Catholic converts named Yuen Yuh-siang and Hia Ching-bing, and under the guise of that sect had led a party of fellows, which attacked and killed Wang Kiang-pao and Tso Yen-shan, severely wounded three others, plundered the houses of their contents, and carried off all the cattle and horses. In 1869 the same dignitary reported that the district magistrate of Tsun-i had sent him a public statement in which the writers declared that four men, named Sung, Tang, Tan, and Kien, who had formerly been rebels and pretended generals, had been received among the Roman Catholics. The injury inflicted upon the towns and villages since from these men was quite incalculable. There were also other restless disturbers of the peace in the neighborhood of Tsun-i, named Yang, Lin, Ching, Hieh, and Chao, who all joined themselves to the Romanists and managed everything connected with the church. They insulted and oppressed the orphans and the helpless, extorted money from the ignorant villagers, went in and out of the public courts, taking the oversight of such cases as related to their co-religionists, as if it was their business. If the magistrate tried to examine a case in which a Romanist was involved, and found that his case was groundless, then Yang and his comrades, at the head of a crowd of converts, would violently rush into the hall of justice and compel the magistrate to reverse his sentence. At other times, when these sectaries were detained under the surveillance of the police, these men would present the missionary's card and demand that the prisoners be instantly released. The cases, in short, are very numerous in which they have wrongfully possessed themselves of people's property, claimed their wives or daughters, or even destroyed their lives.

Rule seventh.

Missionaries living in China should conform to its usages and regulations, and carefully refrain from encroaching on the position of others, or overstepping their own proper functions. They should not presume to use official seals to stamp their letters, or write formal dispatches to officials of any rank. If they have any matters of their own to bring before the magistrates, not cases which involve others, or litigations of other people, let them do so in the same manner that native literary men adopt in addressing those in office, and state their affair clearly in the form of a petition, when it will be attended to and decided. If they wish to have a personal interview with the high authorities, they should adopt the ceremonies of the country and follow the practice of its literary men. Also, when they request an audience of the local magistrates, they should observe proper etiquette, and not rudely march into the public courts, to the great disturbance of official business.

NOTE.—In 1867 the Manchu commander-in-chief at Chingfu, in Szechuen, reported that the French Bishop Sinchon addressed the official board of consultation of that province in dispatches which he stamped with an official seal cast for the purpose. In 1868 Bishop Taury in Kweichan presumed to send an official communication on terms of equality to the Foreign Office, by the government post, in which he took upon himself

to commend and ratify the acts of Towan, a former intendant there, and other officers and requesting that promotion and reward might be conferred on them. In Shantung a Romish missionary had the boldness to style himself a *siun-fu*, or governor. In the provinces of Szchuen and Kweichau the missionaries have gone to the length of asking that certain magistrates be degraded from office, because of their management of missionary cases—acts which not only encroach on and diminish the power of the rulers, but, still more than that, usurp the dignity of His Majesty. How can such unjustifiable and impertinent proceedings as those here mentioned do otherwise than cause general indignation?

Rule eighth.

In order to bring about mutual good feeling, it is proposed that hereafter no Roman Catholic missionary shall of his own motion demand that a place shall be given up to him because it was once a church. When land is to be bought for the purpose of erecting a church upon it, or a building is to be rented for a hall, by the Romanists, it is necessary to go in company with the real owner of the property to the local authorities of the place, in order to ascertain beforehand that there is no difficulty arising from *fung-shui*. If the magistrates consent, and the people offer no counter-representations, and do not dislike the proceedings, then the proposition can be carried out in accordance with the rule agreed upon in 1865. If the place is bought, it must be mentioned in the deed of sale, plainly and explicitly, that the property belongs to the congregation of Chinese Roman Catholics; it is forbidden to falsify names, and make the purchase and get hold of it by using other names. It is also disallowed to employ crafty natives to deceive in these transactions, and by their help to secretly get the property transferred, [without notifying the magistrates.]

NOTE.—Roman Catholic missionaries have long resided in China, and we wish that they and the people may confide in each other, and not so act as to excite the anger or settled dislike of those around them; for then all parties can live together without suspicion. But now many things are done by the Roman Catholics which greatly irritate the people and lead to strife; as, for instance, those proceedings connected with the restoration of church property. In late years, whenever they have demanded that houses and churches should be restored, they have never given a thought as to whether it annoyed the people of the place, but they have peremptorily demanded that the places be restored to them. They would even designate fine and elegant houses occupied by the gentry, and insist on their rendition, saying that anciently a church stood there, and thus compel the occupants to give them up. In some cases, these spots greatly interfered with the public service or dignity, or there was a clubhouse or hall of some kind, a temple, or other building which the whole community held in the highest veneration and carefully kept. These would be unscrupulously demanded and forcibly taken for the use of the church. Moreover, there are many buildings, which in former years really were churches, but in subsequent days were used for other purposes, or which were sold by members of the sect, and in process of time have since been sold by the people again and again, and now do not all belong to one person, or places which have been repaired and improved at a large expense, made like new houses; all these are known to have been forcibly demanded and obtained by the missionaries without paying aught for them. In cases where the buildings had become ruinous and dilapidated, they would demand that they be made habitable at the public expense. These doings have exasperated the people at large, and the two parties look at each other with bitterness. If they come to be actual enemies, how can they be expected to live together without coming to open rupture?

The points which have been discussed in this paper only relate to a part of the whole subject; but they go to prove clearly the improper conduct of the Roman Catholic missionaries, and that the converts cannot live amicably with their countrymen. Everybody knows that severe diseases require quick remedies, and if it is expected that these two parties are to get along well with each other, [something should be done,] and not permit things to go on until the acts of the missionaries seriously impair the amicable relations now existing between China and foreign countries. The other causes of complaint from various provinces are quite numerous, but we have not time to detail them in full. Good and bad people are found in the world, and when the one have been extirpated, then it encourages and soothes the other. For instance, if villainous traders are severely dealt with, you protect and honor the upright merchants by such action. So with the missionaries. If they do not take the trouble to inquire into the character of people, then every miscreant will seek admission into their church, and take advantage of his position to involve or ruin the honest and good. Such men will seek to oppose the officers and rouse the gentry, which will exasperate the people at large still more, till all over the empire they will come to hate foreigners as the inhabitants of Tien-tsin do. In such a posture of affairs, the commands of the Emperor himself would be disregarded, and the danger to everybody would be most imminent. In proposing these [eight] rules the government still designs to exert itself to protect

these men, and at all times will try to maintain just treatment toward all. If the missionaries will honestly adhere to them, no difficulty is likely to arise, and all parties can be at peace; but if they will not accord with them, nor even act as required by the rules of their own sect, they can no longer propagate their doctrines in China. His Majesty's government desire to treat all Roman Catholics the same as they treat their other subjects, and make no difference between them. This decision is not come to because they wish to prohibit mission work in China, but simply because the missionaries do not attend to their proper place and functions. The way the Romanists now stir up and befool people will surely result in some serious disasters on the part of the latter; and if these burst out in many places in open violence, it is not unlikely that the government will be altogether unable to protect anybody. There is, therefore, no better way than for us to clearly state the case, as we have now done, before anything happens.

[Inclosure No. 2.—Dispatch No. 56.]

LEGATION OF THE UNITED STATES,
Peking, March 20, 1871.

GENTLEMEN: I have the honor to acknowledge the receipt of your note of the 13th ultimo, to which was appended a memorandum setting forth somewhat in detail the causes of discontent among the people, and their ill-will toward the missionaries, and appealing to the representatives of all the treaty powers to take the subject into consideration, with a view of devising measures which will have a tendency to remove the difficulties and assure a continuance of peace between China and foreign nations. To accomplish this, eight rules are proposed by you for the better regulation of missionary enterprises. These rules have been drawn up by you in consultation with all the members of the Foreign Office, and will, if accepted and adopted by the western nations, in your opinion, remedy the evils complained of. By way of illustrating your position, showing that foreign missionaries are responsible for much of the ill-will of the Chinese, and proving that additional safeguards are necessary to preserve peace, instances are cited of illegal and unwise action on the part of missionaries.

I have read with attention all the papers you sent, and have given to their contents the most careful consideration.

It is a noticeable fact that, among all the cases cited, there does not appear to be one in which Protestant missionaries are charged with violating treaty, law, or custom. So far as I can ascertain, your complaints are chiefly against the action and attitude of the missionaries of the Roman Catholic faith, and as these are under the exclusive protection and control of the government of France, I might with great propriety decline to discuss a matter with which the Government of the United States has no direct interest or concern, for the reason that none of its citizens are charged with violating treaty or local law, and thus causing trouble. But fully appreciating the force and gravity of your observations when you affirm that involved in this question are the interests of all foreign residents in China, and upon its proper management and solution depend, in a greater or less degree, the safety and well-being of all, whether merchants or missionaries, without regard to nationality or religion, I feel justified in complying with your expressed desire, that all the representatives of the treaty powers will consult upon these grave questions. I shall, therefore, with entire frankness, give you my opinions upon the several points raised by you.

I cordially reciprocate the sentiment when you say that it is the earnest desire of the Prince and his associates to maintain peace between China and all foreign nations, and entirely concur in the opinion that when apprehensions of trouble arise, which may, if not averted, impair friendly relations, it is the part of wisdom and prudence to state frankly the disturbing causes, and together with the foreign representatives discuss, with a view to adoption, suitable measures for remedying the evils. Such discussions can do no harm and may lead to the best results.

Of the truth or justice of the complaints made to you by the provincial officers against the Roman Catholic bishops and priests, the undersigned cannot presume to judge. It is, however, not impossible or hardly improbable that the local officials, who think that their authority has been improperly resisted, and themselves insulted, may have overrated the discontent of the people, and have reported isolated cases of misconduct as the rule of missionary action.

It is also a noteworthy fact that substantially all the instances mentioned, where trouble has occurred through the alleged evil practices of the priests and Christians, are confined to the provinces of Szchuen and Kweichau—provinces far remote from the residence of consuls, merchants, and foreigners generally—which renders it difficult to obtain evidence as to the actual facts, except from the principals and their adherents on either side.

In this view, it is unfortunate that merchants are not allowed to reside there also,

and that these places are not open to the residence of foreign consuls, who could look after and arrange such difficulties as they arise; and I would suggest that you take into careful consideration what has so often been urged upon the attention of the government, and see whether the opening of these disturbed districts to trade and the residence of foreign consuls would not be the best means you could adopt to prevent missionary troubles.

But, conceding that the charges you make are substantially correct, and the troubles as great as you represent, the remedy, it appears to me, is quite simple, requiring no extraordinary rules or regulations. You say that the trouble arises chiefly from the illegal acts of the native Christians, and the attempt on the part of the missionaries to shield these people from the just punishments for their crimes. In reply, I have to say that the Government of the United States, while it claims to exercise, under and by virtue of the stipulations of treaty, the exclusive right of judging of the wrongful acts of its citizens resident in China, and of punishing them when found guilty according to its own laws, does not assume to claim or exercise any authority or control over the natives of China. This rule applies equally to merchants and missionaries, and so far as I know all foreign governments having treaties with China adhere strictly to this rule. In case, however, missionaries see that native Christians are being persecuted by the local officials on account of their religious opinions, in violation of the letter and spirit of the XXIXth article of the treaty between the United States and China, it would be proper, and entirely in accordance with the principles of humanity and the teachings of their religion, to make respectful representation of the facts in such cases to the local authorities direct, or through their diplomatic representative to the Foreign Office; for it cannot be presumed that the imperial government would sanction any violation of treaty engagement, or that the local officials would allow persecutions for opinion's sake, when once the facts are made known to them. In doing this the missionaries should conform to Chinese custom and etiquette, so far as it can be done without assuming an attitude that would be humiliating and degrading to themselves.

With reference to Rule 1, as proposed, the undersigned is not prepared to speak. The American missionaries have no establishments of the kind alluded to, and he cannot assent to or dissent from a proposition which has for its object the regulation and government of asylums of a distinct religious sect, under the special protection of another nation. He would, however, observe in this connection, that there are Roman Catholic orphan asylums in all parts of the United States, over which the Government exercises no surveillance or control; and, instead of arousing suspicion and hatred, these charities are so well and favorably known that they merit praise and commendation, and receive contributions for their support from both government and people, irrespective of religious creed, wherever they are located. It would, I think, be well for the government of China to expend its energies in the more weighty concerns of administration, and allow charities of all kinds, which have for their object the amelioration of the condition of children or adults, the largest freedom compatible with the safety and well-being of the people.

Rule 2 is without apparent reason, and unjust. Among all western nations females attend churches in common with the males, and their religious teachings conduce to the highest good. Their attending church in company with parents, husbands, and friends should in no manner give rise to suspicions. On the contrary, their presence in such places is a guarantee against illegal combination or plots against the state or individuals. In western lands it is considered of the highest importance that females be educated in literature and religion, so that they may be fitted to rear families who will become useful and honest members of society. So fixed is this principle become in all Christian countries that a proposition of this character will be regarded as an unfriendly interference to prevent the carrying into effect, in its proper sense, Article XXIX of the treaty before alluded to. I deeply regret that such a rule should have been proposed. Instead of being accepted by the treaty powers, the mere mention of it will, I fear, cause some to doubt the good faith of the government and people of China in their profession of a desire to observe all treaty stipulations.

Rules 3 and 4 appear to me entirely unnecessary. Missionaries have no right under the treaties to do the things complained of; hence any additional regulations to prevent such acts are superfluous.

When native Christians offend they are subject to, and under the control of, the laws and officials of their own country; nor do I see how it is possible for the missionaries to oppress the people in any way. In the United States every person is allowed the largest liberty in the discussion of all subjects pertaining to government or religion. In this way the people hear all sides, and are the better able to judge between the true and the false. If the Buddhist, Taoish, Confucian, and Christian faiths could all be explained without hinderance, the people will judge of the merits of each and adhere to the one that seems to be the most reasonable and true. Each sect will find adherents and followers, but there need not on this account arise ill-will, jealousy, or hatred between the followers of these sects. It would be well, I think, for the government to make further inquiries into the customs of foreign nations, and see whether it would

not promote a better understanding between natives and foreigners, without weakening the government or lessening the respect of the people for their rulers, if greater freedom were allowed in the worship of all religions, and the adherence to any sect the people choose without interference on the part of the government.

If native Christians are exempted from the payment of contributions for theatrical plays and processions it shows a spirit of justice on the part of their rulers, and should in no way cause them to evade the payment of their proportion of other proper taxes and assessments; nor should missionaries uphold them in such acts. But foreign missionaries, while it is their duty to refrain from any interference between natives and the officials, except to explain cases when explanations will be of service to enable justice to be done, and which the officials will, without doubt, always be glad to have if they are honest, cannot be held subject to Chinese law except in the way of arrest and delivery to the consular officers of their own country, according to the rule laid down in the treaties. In the cases cited which occurred in Szchuen, where it is charged that the Christian culprit ran away and evaded justice, the proper officers are, it seems to me, alone responsible for all this. The missionaries had no right to shield, screen, or secrete these people, nor should they be censured if they refuse to act the part of police officers in the arrest of Christians. This all belongs to the local officials to do. If the men were guilty, I fail to see any good reason why they were not arrested and punished the same as Ho Tsai and Liuh Fuh, if the officers had done their duty.

Rule 5 seems to me proper enough, except that portion authorizing a refusal of passports for provinces where rebellion may exist. If consented to, this might practically nullify the whole passport system provided for in the treaties. Missionaries will hardly take the risk of going into districts where rebellion is rife; and if they do, on them will fall the penalty of such rash acts. In the last ten years, during which passports have been granted, no cases have been reported in which the holders have gone among rebels to aid them in any way.

Rule 6. I fail to see what practical good would come from a registry of the members of each church, were it assented to. It is not to be supposed that all enrolled as members of the Buddhist, Taoist, Confucian, or Christian sects are pure and honest men; nor should the fact of their being so enrolled exempt them from arrest and punishment in case they commit offenses against the laws.

In the cases mentioned that happened in Kweichan in 1866 and 1869, instead of making these a ground of general complaint to the Foreign Office, why did not the governor cause the arrest and punishment of the brigands? Their profession of Christianity certainly did not exempt them from the just consequences of their evil deeds. It would seem that the officers, instead of attending to their own proper duties in the administration and due execution of the laws, chose to allow these people to escape for the purpose of reporting these cases, and on them founding a general charge against Christianity and the missionaries. If lawless people, whether Christians or non-Christians, are allowed to oppress the orphans and the helpless, deceive and exact from the villagers, and assume improper positions in the courts, instead of listening to such complaints from those whose duty it is to prevent and punish such outrages, the officials should, it seems to me, be summarily deprived of their rank and severely punished for allowing these things to go on.

Rules 7 and 8. If the missionaries assume to exercise powers unauthorized by treaty and regulations, use seals, or adopt a style in addressing the officials in any way unbecoming, the representative of the government to which they belong, upon a proper statement of the facts, would issue such orders as would prevent a repetition of such improprieties. In case of any gross breach of etiquette by an American missionary, I should, upon the fact being made known to me, take steps to prevent such occurrences in the future. It is the custom of the American missionaries to use caution when they go to a new place to rent rooms or houses, and they endeavor by all means to so manage as to gain the good will of the people.

Instances have occurred where they have been prevented from renting or buying property for no other reason, apparently, than a disposition to embarrass and hinder them in their preaching. Many cases of this kind have occurred which would have formed just grounds for complaint to the Foreign Office. I have, however, refrained from making complaints of this character, as I felt sure that as soon as the real purposes of the missionaries became better understood there would be less and less opposition to them on the part of the people. With reference to the restoration of property which was confiscated many years ago, and of the use of which its proper owners have been deprived, that is a matter which concerns the missionaries of the Roman Catholic faith alone, and must be arranged with the representative of France. It is, perhaps, but natural that disputes and difficulties should occur in the settlement of such a question. No fixed rule is possible which will apply in all cases of this nature. Nothing but mutual forbearance, and a desire to settle amicably, in a spirit of justice, these questions, will be likely to accomplish a satisfactory result. The experience gained in the solution of these questions will, undoubtedly, prove a useful

lesson to both officials and people. It will clearly demonstrate that unjust and unlawful persecutions and confiscations will require reparation sooner or later, and prove that the best way to avoid the difficulties that have caused so much anxiety and trouble during the past ten years is to act justly toward all people and all religious sects; then foreign nations will have no claims of this nature to urge.

To assure peace in the future, the people must be better informed of the purposes of foreigners. They must be taught that merchants are engaged in trade which cannot but be beneficial to both native and foreigner, and that missionaries seek only the welfare of the people, and are engaged in no political plots or intrigues against the government. Whenever cases occur in which the missionaries overstep the bounds of decorum, or interfere in matters with which they have no proper concern, let each case be reported promptly to the minister of the country to which it belongs. Such isolated instances should not produce prejudice or engender hatred against those who observe their obligations, nor should sweeping complaints be made against all on this account. Those from the United States sincerely desire the reformation of those whom they teach, and to do this they urge the examination of the Holy Scriptures, wherein the great doctrines of the present and a future state, and also the resurrection of the soul, are set forth, with the obligation of repentance, belief in the Savior, and the duties of man to himself and others. It is owing, in a great degree, to the prevalence of a belief in the truth of the scriptures that western nations have attained their power and prosperity. To enlighten the people is a duty which the officials owe to the people, to foreigners, and themselves; for if, in consequence of ignorance, the people grow discontented and insurrection and riots occur, and the lives and property of foreigners are destroyed or imperiled, the government cannot escape its responsibility for these unlawful acts.

If the danger is as great as the contents of your communication would appear to indicate, and that, owing to the ignorance of the common people, all will be likely to suffer, irrespective of nationality or religious belief, then it certainly is a matter of great concern to all foreign governments, which should lead them to consult and seek means to prevent, if possible, such a catastrophe, and also adopt measures for defending their rights under the several treaties.

If I have failed to comprehend fully the difficulties and dangers which surround the situation which you have endeavored to point out, or if I have omitted noticing any point of importance, I am quite ready and willing to meet you and the other members of the Foreign Office, and discuss these as well as other questions of difference between your country and foreign nations, in a spirit of forbearance, with an earnest desire to so arrange and settle all questions that peace and mutual confidence may long continue.

With renewed assurances of regard and consideration, I have the honor to remain your excellencies' obedient servant,

FREDERICK F. LOW.

Their Excellencies WÂN-TSIANG.
SHIN-KWEI-FAN.

[Inclosure No. 3.—Dispatch No. 56.]

[Translation.]

Copy of a confidential note addressed by the Chinese minister Wân-tsiang to Sir Rutherford Alcock, late British minister at Peking.

JUNE 26, 1869.

The writer again addresses. [Sir R. Alcock.]

The object of foreigners who enter the interior to propagate their doctrines is the exhortation of men to virtue. But among their converts there are evil-disposed and well-disposed. [The latter,] relying on their creed as a sort of magic spell which shall protect them, by their conduct bring the preaching of Christianity into such discredit that [the people] are unwilling to allow the missionary to remain in any place that he goes to. Add to this that the missionary only thinks of the number of converts he can make; he makes no inquiry into private character, but receives and enrolls all [who come.] Having entered the [Christian] society, the good are bent, no doubt, on being good; but on the other hand, the evil make [their religion] a pretext for defrauding and oppressing unoffending people, till, by degrees, indignation and rage reach a point at which the relations of the two parties become as those of fire and water. At the present time, as the British minister must doubtless be well aware, case after case of murder has occurred, the consequence of feuds between Christians and non-Christians. Although the creeds of the various foreign countries differ in their origin and development from each other, the natives of China are unable to see the distinction between them. In their eyes all [teachers of religion] are "missionaries from the west," and

directly they hear a lying story [about any of these missionaries,] without making further and minute inquiry [into its truth] they rise in a body to molest him.

The Yang-chow affair is plain evidence of this. Now, if no preventive measures be taken, some great catastrophe will inevitably arise.

Regulations ought, therefore, to be drawn up with such care as shall enable them to protect native Christians from making their religion a pretext for extorting money from honest people, or the non-Christians from taking advantage of their numerical superiority to defraud and oppress the Christians, which shall, besides, bring missionaries, even as the priests of the Buddhist and Taoist sects, under the jurisdiction of the local authorities.

Seeing that missionaries wish to reside in China, and that their doctrines may gradually be propagated far and wide, they cannot wish the Chinese to look upon them as differing from themselves. They ought, therefore, to put themselves on the same footing as Chinese subjects. Buddhism is also a creed of western origin, but the reason why its followers have so long been at peace with the Chinese, each party adhering to his own religion, is this: that although there is a difference of religion, the propagators of this creed are, as well as the others, under the control of the local authorities; and so in Confucianism, the system most esteemed in China, when such men as Chin-Shih and Han-lin, (those who have taken the highest degrees,) after having filled official positions, return home or become the heads of schools, they become subordinate, as they were before [they took office,] to the local authorities. This is always the rule. At the present time foreign missionaries as a general rule adopt the Chinese dress, but they do not [at the same time] submit to Chinese law. They thus begin by holding themselves as outside, [the pale of the law,] and show to others that they are not to be treated as ordinary people; and the native Christians go further. They defraud and oppress ordinary subjects of the country, or withstand and disobey the authorities. [Such being the case,] it is not to be wondered at that men become indignant, and that surprise is everywhere manifested.

But let only this change be made, viz, that [missionaries] be placed under the control of the local authorities, (who must not be allowed to be vexatious in their treatment of them,) and the result will be that Christians and non-Christians will be placed on a just level *ris-à-ris* each other, and no trouble will arise from unexpected sources.

The missionary question moreover gravely affects the whole question of commercial relations. Such measures must, therefore, be devised in time that shall insure the maintenance of everlasting and sincere friendship.

The writer hopes for a reply.

No. 29.

Mr. Low to Mr. Fish.

No. 61.]

LEGATION OF THE UNITED STATES,

Peking, April 3, 1871. (Received July 22.)

SIR: I have the honor to send herewith translation of a note from the Foreign Office, in reply to one from me requesting the good offices of the Chinese government to send a letter from me to the King of Corea.

The note, you will observe, contains a declaration that, while Corea is considered and treated as a tributary kingdom, entire independence is conceded in all that relates to its government, religion, and intercourse with foreign nations. This declaration is made at this time, undoubtedly, to guard against complications that may possibly grow out of an attempt by foreign nations to open intercourse with Corea, and relieve this Government of all responsibility for the acts of the Coreans, whether hostile or otherwise.

It is altogether probable that this course has been adopted by the Chinese officials in consequence of the action of the representative of France, who assumed to hold China responsible for the acts of the Coreans who murdered and expelled the French missionaries in 1866.

The announcement that the sending of the letter is a departure from long-established custom and therefore exceptional, which must not be construed into a precedent for granting similar favors in the future, is put forth in this way to be quoted in case any other government should ask a similar favor.

The timidity of the Chinese officials when called upon to perform any duty not in accordance with long-established precedent and custom is quite apparent, and also their desire to avoid all complications which may by any possibility involve their government in difficulty.

The note in question also exhibits in rather a striking manner the superabundance of circumlocution with which all action of the officials is attended. This will be more apparent when you are informed that, prior to writing the letter in question or making any request to have it sent, I sought an interview with the members of the Foreign Office, at which I explained fully my purposes, the objects I have in view, and what I desire them to do, and obtained from them a promise that my wishes should be complied with.

I have the honor, &c.,

F. F. LOW.

No. 1.

LETTER FROM THE FOREIGN OFFICE,
March 28, 1871.

SIR: We were honored on the 7th of this month by receiving your dispatch, in which you informed us that, as you had been appointed special envoy to go to Corea, there to negotiate upon matters of public interest, you had decided to send a letter to the authorities of that land, and therefore requested us to forward it on your behalf.

In relation to this request we may observe, that although Corea is regarded as a country subordinate to China, yet she is wholly independent in everything that relates to her government, her religion, her prohibitions, and her laws; in none of these things has China hitherto interfered. It was necessary, therefore, in order to forward your dispatch, for the Foreign Office to present a memorial, requesting that it might be transferred to the board of rites to be sent on; but we previously stated to you, that it is impossible to determine now whether the Corean authorities will return an answer.

On the 12th instant we memorialized the throne, requesting that the board of rites might be allowed to write a dispatch to accompany this letter to be forwarded to Corea, and notified that board at the same time. We have now received an answer from the board, stating that on the 22d of this month His Majesty had been informed that this dispatch, carefully sealed, had that day been transmitted to the board of war to be sent on by its couriers. This answer further stated that in all the relations of China with its dependent states the long-established rules of the board of rites had never contained any provision about forwarding letters to them; the permission now granted for it to do such a thing was therefore only for this occasion; it was an extraordinary favor, quite in excess of usage, and one which could not, on any account, be again granted.

We therefore make known this reply to your excellency; and while doing so avail ourselves of the opportunity to wish that you may enjoy daily happiness.

Cards of WANSIANG,
PAOYUN,
TUNG SIUN,
SHIN KWEE-FAN,
MAO CHANG-HI,
TSUNGLUM,
CHINGLIN.

No. 30.

Mr. Low to Mr. Fish.

No. 68.]

ON BOARD FLAG-SHIP COLORADO,
Harbor of Nagasaki, May 13, 1871.

SIR: By the last mail I received a dispatch from H. M. Brent, esq., United States chargé d'affaires in Peru, inclosing a document written in the Chinese language, which he supposed was a petition from the

Chinese laborers in Peru to their government, and asking me to forward it to Prince Kung, if, after examination, I found it a proper communication. I have the honor to send herewith copy of Mr. Brent's dispatch, and a translation of its inclosure; the original of the letter has been sent to Mr. Williams, with instructions to present it to the prince, as requested. This document furnishes additional proof of the barbarities and miseries inseparable from the coolie trade; and although it may not produce such a profound impression upon the Chinese government as it would upon that of any western nation, it will prove one of the many lessons by means of which the officials of China will be made to realize their international obligations, and induce the government to conform its action to the rule recognized as binding upon all other countries. The fact of these people appealing to be placed under the protection of the representative of the United States, in order that their hardships and sufferings may be ameliorated, cannot fail to impress upon the Chinese that there is a clear line of distinction to be drawn between foreign nations and the principles of honesty and humanity by which they are governed, of which the Chinese people generally have a very faint idea.

I have, &c.,

FREDERICK F. LOW.

Mr. Brent to Mr. Low.

LEGATION OF THE UNITED STATES,
Lima, Peru, January 27, 1871.

SIR: I have the honor to inclose herewith a document in Chinese, with its envelope, that has been handed me by the Chinese resident in this capital. It is directed to his excellency Prince Kung; and if you, after having become acquainted with its contents, see fit to deliver it to the Chinese Foreign Office, you will confer a favor upon its authors. I am entirely ignorant of its tenor.

I have, &c.,

H. M. BRENT.

Translation of the Chinese document inclosed in the dispatch of the United States chargé d'affaires at Lima, of date 27th January, 1871, to the minister of the United States at Peking.

NOTE.—The document is a petition by the representatives of certain Chinese societies at Lima, setting forth the distress of coolie emigrants in Peru, and praying that a Chinese envoy may be appointed to inquire into their condition; or, failing in this, that the United States minister to Peru may be invested with authority to act as such envoy. The date of the petition is 26th January, 1871. The cover is dated 10th year of Tung-Chih, first moon, 26th day, and is stamped with the name of the Fukeên and Swatow Guild, the Kwang Tung Guild, and the Tung Shêng club, of Lima.

The petition is in very good literary style; the person to whom it is addressed is probably the United States minister at Lima, though no name or title excepting "your excellency" appears in it.

[Translation.]

Chêng Chuan, Wen Têh-lin, Chêng Chun-ta, and Lin Hu-shih, representing the Kwang Tung and Fu-Kêên Guilds, all being Chinese subjects lost abroad, with their heads to the ground, present a petition to your excellency. They cast themselves upon your heaven-like intelligence, that the insolent deception and cruelly oppressive treatment, suffered by Chinese subjects at the hands of wicked barbarians, may be required into. Petitioners would humbly set forth that the reason why, though born and bred in China, they took service abroad is because they were unable to gain a livelihood at home, owing to the swarm [like bees] of rebels and robbers from the fourth year of Heen Fêng, (1854.) Later, in the eighth year of Heen Fêng, (1858,) there appeared a joint notification by his excellency Hwang, governor general of the two Kwang provinces, and his excellency Pih, governor of Kwang Tung, to the effect

that rules of agreement had been entered into with England and France, with reference to the engagement of laborers to go to Peru, the period of service to be eight years, on the expiry of which term those thus engaged to be sent home, etc., etc.; and consequently the number of emigrants who have come to Peru since that year is no less than several myriads. But, far from what was expected, the barbarians have shown themselves treacherous in many ways. In China, when they were seeking men, they spoke of our taking service as laborers, and designated us "guests," [i. e., *visitors* abroad;] on landing in their country, however, they said we had "sold ourselves," and called us "slaves." Furthermore, they beat and swear at us with great violence, and feed and clothe us insufficiently; they brand two characters on the side of the face as is done in China in cases of banishment; they fasten shackles on the ankles, just as if we were captured prisoners. We have to till the soil or dig canals, day and night; with flogging and beating to death, one cannot reckon the number of restless ghosts. Notwithstanding rules of agreement were drawn up, in how many instances have they been regarded? While it was stated that we should be sent home, yet, who, we ask, has been so sent on the expiry of the term of service? Alas! Alas! Your supplicants went forth from a land of reason and justice to one where no sense of right prevails; from being the faithful subjects of a great country we have unwittingly fallen into the poisonous clutch of barbarian slaves. We humbly submit that having [in going abroad] shown ourselves disloyal to our sovereign and unfilial to our ancestors, the infliction upon us of insult and oppression does not indeed merit commiseration; still, the treatment we, his subjects, receive gives our Emperor cause to blush, and is a stain upon our ancestors. How very painful it is to speak or think of this! In the first moon of the ninth year of T'ang Chih, a petition was forwarded through the United States magistrate [? consul] to the minister, praying him to intercede. On the 21st day of the 4th moon a reply [from the consul] was received to the effect that he hoped the United States minister would examine the circumstances with compassion, and devise means of relief, so that those desiring to remain should no longer be subjected to oppression, and those desiring to return home might do so at an early day. This the consul earnestly hoped; and further, this matter had been fully communicated to their excellencies, the envoys from China to the different powers, Mr. Burlingame, Chih, and Sun, for their information, &c.; such was the reply to the position. But although we have been favored with the sympathy of these high officials, still our extreme distress has been too great to be relieved, and from day to day the oppression grows worse. The avarice and cruelty of the wealthy merchants is wolf-like, and the vexatious treatment of the foreign [Peruvian] officials is like a tiger. Our countrymen cannot make a motion without its being construed into a fault. What is the explanation of all this? England, France, and the United States, and the various nations great and small, whose people are engaged in commerce here, and go to and fro, have each established an official called "consul," a man sent out from his own country; again, there are ships of war every year visiting and looking about, and each nation has its resident minister to exercise control. Hence the officials and people of Peru do not dare to commit such acts as they please with the people of other nationalities, and the reason why all kinds of tyranny is visited upon Chinese alone is verily that our heavenly dynasty has no ships of war to visit and inspect, and no minister to exercise control on the spot. With the majesty of the Emperor extending to the four seas, and his goodness pervading every place, we humbly venture to ask why this hateful tribe should be permitted to give the rein to their violence and audacity, to the grievous affliction of his subjects?

Your petitioners, in sore distress at the cruelties inflicted, and with a sense of resentment for the living and the dead, have prepared a petition in common, supplicating your favor to save and lift them up; they would beg your excellency to have the Emperor memorialized to exercise his special grace, and commission an envoy to proceed to Peru to make an investigation, when the wicked barbarians must certainly put a stop to their cruel conduct; or, failing this, to commission the minister of the United States to act for him. Then the restoration of your humble petitioners from death to life will be the gift of your excellency. On our knees we present this petition, praying that your excellency's posterity may be ennobled for all generations.

The humble members of the Kwang Tung Guild, and of the Fukeen Guild, prostrate themselves.

Petition presented on the 26th day of January, (according to the occidental date.)
True translation:

EDWD. B. DREW.

May 11, 1871.

No. 31.

Mr. Low to Mr. Fish.

No. 69.]

ON BOARD OF FLAG-SHIP COLORADO,
Harbor of Nagasaki, May 13, 1871. (Received June 22.)

SIR: I have the honor to report my arrival in this harbor in the flag-ship Colorado, on the morning of the 12th instant, having left Shanghai on the 8th instant. Our departure from Shanghai was delayed several days in consequence of the necessity of the admiral's presence there in arranging for the repairs of the Ashuelot, and other business pertaining to his fleet. The Monocacy and Palos accompanied the Colorado, and are now in this harbor. We found the Benicia and Alaska here awaiting our arrival. The fleet expects to sail on Tuesday the 16th instant, and, if nothing unusual occurs, will reach the coast of Corea in three or four days thereafter. The admiral has gathered all the information possible in regard to the coasts, harbors, and rivers of Corea, and I have collected all the data that can be found, private as well as public, about that country and its inhabitants. It is, however, meager, and not to be relied upon as a guide for action.

The fact is that Corea is more of a sealed book than Japan was before Commodore Perry's visit. The scanty information obtainable, if taken as a guide, will be more likely to mislead than otherwise, and hence I shall consider personal observation and experience as the only safe and reliable basis from which to form conclusions, and on which to found action.

I apprehend that all the cunning and sophistry which enter so largely into oriental character will be brought to bear to defeat the object of our visit, and if that fails it is not unlikely that we may be met with a display of force. It is impossible to say what the exact line of action will be, as so much depends upon the temper and disposition of the Corean officials. I hope that the object sought for may be accomplished peacefully; but if it becomes necessary to use force, I shall endeavor to confine it to repelling unprovoked attacks, and redressing actual wrongs and insults. It is mistaken policy when dealing with oriental governments and people to allow insults and injuries to go unredressed. Such lenity leads them to believe that fear alone prevents retaliation, and adds to their arrogance, conceit, and hostility.

It gives me pleasure to add that I am comfortably situated on the flag-ship, and every disposition is manifested to contribute to my convenience and comfort. Admiral Rodgers exhibits an anxiety to render the mission a successful one, and I doubt not there will be entire concurrence and co-operation between us on all measures which may be deemed necessary for the public interest. It is doubtful if I shall be able to communicate with you again until the mail which leaves Shanghai July 12.

I have the honor, &c.,

FREDERICK F. LOW.

No. 32.

Mr. Low to Mr. Fish.

No. 70.]

ON BOARD FLAG-SHIP COLORADO,
Off Isle Boisé, Corea, May 31, 1871. (Received July 24.)

SIR: Referring to my No. 65, of 25th ultimo, and No. 69, of 13th instant, I have now the honor to report my safe arrival at this point yesterday afternoon. The other ships of the squadron are also at this anchorage. The ships left Nagasaki on the 16th instant, Ferrières Islands, off the coast of Corea being designated by the admiral as the place of rendezvous. From there to this anchorage our progress has been slow, it being necessary to send the smaller vessels and the steam-launches ahead to explore the channels before proceeding with the larger vessels. Dense fogs for several days further hindered our progress. This accounts for the length of voyage.

A map* which is inclosed herewith will give you a general idea of the configuration of the coast, the position of the squadron at the present moment, and an outline of the water approach to the capital, as well as the general direction by land and the approximate distance by either route. This map is made from the explorations and surveys of the French squadron when here in 1866, and has been found as far as verified substantially correct. The distance from here to the capital by water is about fifty miles; by land about half as much. It is believed that it will be found impracticable to move the Colorado, Alaska, and Benicia any farther up without great risk. The Monocacy and Palos can undoubtedly go to Seoul by taking advantage of the tides, the rise and fall of which varies from twenty to forty feet. These extraordinary tides cause very rapid currents, varying from four to eight miles an hour in velocity.

When we reached an anchorage off Eugénie Island the Palos and four steam-launches were sent northward to sound the channels as far as this point. They met with no resistance, nor was any attempt made by the natives to communicate with either the launches or the vessel. I inclose herewith copies of my instructions to Captain Blake, of the United States steamer Alaska, who was placed in command of the surveying expedition. I also sent with him as interpreter Mr. John P. Cowles, jr., acting assistant secretary of legation. Inclosed you will find his report of the incidents that occurred on the trip. While lying at the anchorage, near Eugénie Island, boats were sent out sounding in the immediate vicinity. The first day the natives fled to the hills upon the approach of the boats to the shore. The second day curiosity evidently overcame their fears, and some came down to the beach near the boats and handed to the officers some slips of paper written in Chinese, inquiring where we were from, what was our business, &c., &c. As their actions appeared to be friendly I ordered a reply to be returned, giving assurance of our friendly intentions, and sent Captain Nichols, chief of the admiral's staff, and Mr. Drew, on shore to deliver it. They met the people assembled about fifty in number, and had some conversation with them. No official appeared acknowledging himself as such.

Soon after the ship anchored here, yesterday, a native boat made its appearance near by, the men on board holding up a letter and beckoning for some one on the ship to come and get it. Mr. Drew went off in a boat, boarded the junk, and got the letter, a copy of which, together

* A copy of this map is not sent.

with my reply, I have the honor to enclose. The men in the junk were invited on board the ship, where they came without hesitation, and a considerable conversation ensued between them and Captain Nichols and Mr. Drew. They said that three officials of the third rank were waiting at a place near here, having been sent down by the government to see and inquire into our particular business, and that they had been sent by the three officials to bring their note. These men were informed that the officials referred to would be received on board whenever they chose to come. In the reply which was returned the officials were informed that a surveying party would proceed up towards Kang-hoa; that the common people need not be alarmed at their approach, as our intentions were entirely peaceful. The messengers were verbally requested to ask the officials to send word up the river to the people not to molest the surveying vessels, and thus avoid all chance of trouble. This assurance of our peaceful disposition was accepted with indications of much satisfaction.

To-day the three officials came on board, and as they appeared to be of minor rank and failed to exhibit any authority from the government I declined to see them, and substituted Mr. Drew and Mr. Cowles to meet them in my stead. They were again informed that the surveying vessels would go up higher to-morrow, and were assured of our desire to avoid trouble in every way. They made no objection, but, on the contrary, gave tacit assurances that the expedition would meet with nothing but civility and kindness from the natives. Mr. Drew also informed them that the minister on board had important business with the government, which would be made known to a person of equal rank duly appointed by the King, and that it was our desire to establish peaceful relations between the two countries which would be lasting. They acknowledged having seen my letter written at Peking, and stated that while the King desired to maintain friendly relations, he did not desire to make treaties—a treaty in their estimation meaning trade.

In reply they were informed by Mr. Drew that he was not authorized to discuss these points, and that all this could with propriety be left for discussion when a high official came to meet the minister. They were shown over the ship, and upon their leaving Mr. Drew requested that a report of the interview might be made known to the King, to which they made no objections. What the result will be it is as yet premature to predict. I place little confidence in oriental professions of friendliness. Every effort will be made to avoid trouble, unless forced upon us in a way that cannot be escaped without dishonor.

I have, &c.,

FREDERICK F. LOW.

List of inclosures.

- No. 1. Map West Coast of Corea.
- No. 2. First letter of instructions to Captain Blake.
- No. 3. Second letter of instructions to Captain Blake.
- No. 4. Report by Mr. Cowles of surveying voyage from Roze's Roads to Island Boisé.
- No. 5. Note of May '30 from Corean officials.
- No. 6. Note of May '30 to Corean officials.

No. 2.

*Frederick F. Low to Homer C. Blake.*ON BOARD UNITED STATES FLAG-SHIP COLORADO, *May 23, 1871.*

SIR: Herewith I beg to hand you a sealed letter, written in Chinese and directed to the King of Corea, which I desire you to forward to its destination by an official of the highest rank you may meet, if you find such a course practicable. If no official makes his appearance during your explorations south of the island of Kang-hoa, you will retain the letter until you reach an anchorage opposite the city of the same name upon that island. If, upon your arrival there, no officials make their appearance, through whom you can communicate with the capital, it is my wish that you shall write a note in your own name, with your rank attached, to the highest official resident at Kang-hoa, informing him that you are the bearer of an important dispatch from the minister of the United States to the government of Corea, which it is desired shall reach its destination without unusual delay, asking him at the same time whether it will be more convenient for him to forward the letter, or whether, by declining this service, he will leave the United States minister free to seek such other means of communicating with the capital as shall be by him deemed advisable.

If an official undertakes to deliver the letter, you will endeavor to procure a proper acknowledgment, in writing, of his promise, and, if practicable, get him to name the time when and the place where the answer will be returned.

If, during your trip to Kang-hoa, you find no one who will undertake to perform the service, you will return the letter to me with a report of your proceedings.

It is not unlikely that you will be visited by natives, both official and unofficial, who will make inquiries concerning the visit of the squadron, and the objects we have in view. It is my desire that neither you nor the officers under your command shall hold conversations with any except officials, with reference to the object of my visit or that of the squadron. In conversation with officials, and in reply to the inquiries they will probably make, you are at liberty to say that I am sent by the President of the United States to arrange important matters with the government of Corea, the particulars of which will be fully and frankly made known when a person of suitable rank and station is duly appointed to meet and confer with me; that I desire nothing but what is reasonable and proper, and which I cannot doubt will be agreed to after the government shall be made acquainted with my requests; that I do not expect this can be done in a few days, and therefore I have come prepared to spend a considerable time upon the coast, in order that a thorough understanding may be arrived at which will render the friendship of the two countries firm and lasting; that considerable delay will undoubtedly be necessary in order that the difficult channels may be explored and sounded, and thus rendered safe for the larger vessels to approach nearer to the capital, where it is my wish that negotiations may be carried on; which delay will afford ample time for the government to consider and discuss the matter, and enable it to give an answer, probably, by the time I shall have reached the capital or some point in its vicinity.

If they ask why so many ships of war have come on a professedly peaceful errand, you can reply that a minister of my rank does not travel except in a dignified manner befitting his mission, with force sufficient to repel attacks, and chastise all who may molest or insult either the minister or the flag of the country he represents.

Mr. John P. Cowles, jr., acting assistant secretary of legation, will accompany you as interpreter.

Relying upon your good judgement and tact to successfully carry out my wishes, I am, &c.,

F. F. LOW.

No. 3.

*Frederick F. Low to H. C. Blake.*ON BOARD FLAG-SHIP COLORADO, *May 23, 1871.*

SIR: With this you will find a general letter which I had prepared for your guidance during your preliminary trip to the northward. Inasmuch as you will not proceed as far as the island of Kang-hoa before returning to the flag-ship, I do not send the letter for transmission to the King of Corea. I shall retain it here; and if you meet any officials desirous of learning the object of our visit to the coast, you will be guided by the tenor of the general letter accompanying this in your conversations with them. You will further inform them that I am on board the flag-ship, and have a letter which I desire to send to the government.

Respectfully, yours,

F. F. LOW.

No. 4.

*John P. Cowles, Jr., to F. F. Low.*UNITED STATES FLAG-SHIP COLORADO,
Roze Roads, Corea, May 29, 1871.

SIR: I have the honor to report that, in obedience to your instructions, I accompanied Captain Blake in charge of a surveying expedition up towards the mouth of Salée River. Leaving on the morning of the 24th, in the steamship Palos, and with four fully-equipped steam-launches, reached Boisé Island at noon of the 26th, and found there a fine harbor equal to all requirements. It was ascertained upon the trip up, by the thorough investigations of the commanders of the launches, that the Gulf de l'Impératrice is a shoal bay, which, though reaching far in towards Seoul, and that too in a direction where the air-line to Seoul would cross much less elevated land than generally prevails, is yet too shoal to admit vessels of even light draught. Numerous junks were observed in the northeast of this gulf, and it is surmised that in that neighborhood lies the approach to Jén Chûan, a place which should, by the maps, be not less important officially than Kang-hoa, and can lie but five miles or so from Boisé. It is thought by good judges that the track of ships approaching Seoul River from the southward will henceforward not make the Ferrières Islands as their first land, but instead run in for Ronnd Island, only five miles below Boisé. The launches were in some cases shouted to by natives, some displaying bows and arrows, some matchlocks; but the greater part of the population were unarmed, and showed alarm by retreating to the clumps of trees on the hill-tops. The islands are only very sparsely populated, only scattered spots of valley-land being cultivated. The islands were, only in exceptional instances wooded, and water seemed not very abundant. The Tache Blanche, four miles below Round Island, was visited at low water and declared to show many indications of iron.

The French charts were found remarkably accurate, except that not all the barriers to seaward can be substantiated. The navigation in clear weather as far as Isle Boisé would be very easy. Plenty of water can be carried to Boisé. The water there is still salt, supporting the soubriquet given by the French of Salt River.

We saw no indications of fortifications till we approached Boisé; this island and Roze Island, a narrow passage of a mile and a half, existing between the mainland and the large island Tung Tjong to the west. On the eastern end of this island—Tung Tjong—is the village, with a rather Japanese-like wall, with a sea-front of perhaps a mile and a half. The wall is, perhaps, fifteen feet high, but not, apparently, thick. Its age would seem to point back to Japanese tuition. Launches could approach it within a dozen rods at high tide, if the position of fishing-boats lying on the flats under it at low tide be evidence. The inhabitants were spying at us from hiding-places about the wall, as we came before the place with our decks cleared for action. The next morning, (27th May), the alarm had spread; men were coming in from the neighborhood, and some 200 troops, or armed citizens, paraded under military mandarin, armed with sharpened wood lances, banners, &c. The mandarins are in the uniform described in Belcher's "Voyage of the Samarang" to Quelpart; peacock feathers in the hat, pink or scarlet cuffs turned back, tunic of gray, and mantle or cloak of dark blue. On the morning of our third day at Boisé, as we left there seemed little or no excitement. A few curious were peeping at the vessels from behind corners of houses in the village, and those who moved more to the front and into our view were warned back by the mandarins. The walls were without guns, so far as we could see; gongalls they may nevertheless have. A ferry crosses to the mainland from the above village, and a path runs from the ferry-landing toward Seoul.

By ferry is meant a single sampan, making, perhaps, a dozen trips a day. Island Boisé is quite exceptional in being wooded, and it is worth inquiry whether it may not be one of those wooded and sacred islets never disturbed but by robber-Chinese sailors. Toward the northwest of the above island, with the walled village, exist other villages and weirs for fishing. We saw several Korean two-masted vessels, of from ten to eighty tons burden; they avoided us. It is thought that, had launches gone within bow-shot of the sea-wall of the above village on Saturday morning, May 27, during the great excitement, of especially the military portion of the community, it is probable they would have run great risk of being fired into. The next day when, after taking ineffectual departure, we were driven back for shelter, we found them quiet. It is thought the eight-mile wall along the river-edge of Kang-hoa Island is probably similar to that about the above village. Also, that the surprised and excited, but soon pacified, conduct of the islanders points to no special influence or command from the court authorities in this instance, but is rather the carrying out of the traditional habit towards foreigners. It is therefore thought that we shall meet the same surprised conduct in natives till we eventually reach some place where special instructions have been, or shall have been, sent down from court for our either peaceable or hostile reception.

The Palos would appear to be indispensable as a base of supplies, &c., and for the launches which, from their complicated wants, need some reliable store on which to draw to meet emergencies almost hourly arising in their excursions; such as want of water, coal, kindling-wood, and repairs—the latter by no means unfrequently. With such a movable base, a boat force is almost as much at home before Séoul as at Boisée.

The temper of the village on the 27th forenoon may prove of value in showing that the meeting of both sides with arms in hand (as was the case in Japan when Commodore Perry sent the President's letter on shore) may pass off without accident, for their sudden pacification on the morning of the 28th shows it to have been a temporary excitement, very dangerous while it lasts, but better than a settled line of policy of "shoot whoever lands—cold blood or hot blood matters not," which we might have anticipated.

We enjoyed most favorable weather. The sun's heat was never oppressive. The nights were rather cool.

The country appears thus far poorer than North China. Only a small portion of the houses of a village are tiled. The yamén is far from creditable, from a Chinese point of view, and few buildings equal the yamén.

If a collision was the thing most immediately to be deprecated, launch-work, similar to the above, with orders not to land, would seem the safest measure to prevent it, for though the plying to and fro of the launches speedily creates excitement, yet, as they also soon show themselves peaceable, the excitement dies. The numerous trips of the launches, too, make each launch's total of impression upon the natives perhaps equal to that of a larger steamer. The demonstration of launches into the northeast of the Gulf de l'Imperatrice was not carried out—the weather being too rough to permit the launches to succeed in reaching the east of the bay. The land seems to break down in the direction of Séoul, as per French chart. Numerous vessels were reported in the northeast bight of the gulf, and it is thought their destination may have been the Jên Chuan of the map, where officials, perhaps slightly inferior to those of Kang-hoa, may be located.

As, in accordance with instructions, intercourse with the natives was rather avoided than sought, I was not called on for any services as interpreter, &c.

As the character of the fine force under Admiral Rodgers has and will come under your own observation, it is unnecessary for me to express my individual admiration of the faithful execution of duty which brought to completion the above reconnaissance and survey; one carried out with no small discomfort to the officers in the launches, and during the rough weather of the 28th at their no little personal risk.

Very respectfully, &c.,

JOHN P. COWLES, JR.

No. 5.

Translation of note in Chinese, undirected and unsigned, brought by four Koreans to the Colorado at Isle Boisée, from three officials, on the afternoon of the 30th May.

A day or two since, on the transmission of your honorable missive from Nan Yang Foo, the court for the first time recognized that your honorable ships are [the ones] sent from America to enter our humble confines. Thereupon the officers [who are the writers of this] were sent forward to ask particulars [of your mission.] Your vessels lie at anchor out in the sea, and as ours are not used to going to and fro in the stormy waves, we remain temporarily on the sea shore of Jên-Chûan Foo. We first make this announcement and await a few words in reply.

Fourth moon, 12th day, (30th May, 1871.)

True translation:

E. B. DREW.

No. 6.

English version of note in Chinese handed to four Koreans in reply to a note brought by them to the Colorado at Isle Boisée, from three officials, on the afternoon of 30th May.

A note inquiring into the circumstances of the American ships coming into these waters has been received, and the purport communicated to the minister and the admiral.

His excellency the minister instructs me to send a reply, saying that the ships have come to bring a high envoy, who has important business with the government of this country; that he does not doubt that persons of high rank will in due time be appointed to confer with him, to whom it will be proper to make known his business;

that he will remain on board the ship here for several days, to wait for any communication the government may make; but in the mean time the smaller vessels of the fleet will make explorations further on, in order that the large ships may move nearer the capital, in case the minister deems it necessary; that the common people need not be afraid of the ships harming them so long as the people on board are treated with civility and kindness; and the minister and admiral hope that such instructions will be given to the people, so that no trouble may occur.

No. 33.

Mr. Low to Mr. Fish.

No. 71.]

ON BOARD FLAG-SHIP COLORADO,

Near Isle Boisée, Corea, June 2, 1871. (Received July 24.)

SIR: Our peaceful operations looking to the opening of negotiations with Corea, met with a sudden and unexpected but not unprepared-for check yesterday. As had been previously announced to some officials that came on board, the *Monocacy*, *Palos*, and four steam-launches started yesterday to explore the passage northward between the mainland and the island of Kanghoa. These officials were informed that our intentions were peaceable, and that no one would be harmed or disturbed unless we were attacked; but that if the vessels or their crews were molested in their peaceful operations, force would be met by force. The admiral placed the expedition under the immediate command of Captain Blake of the *Alaska*, and, with my assent and approval, instructed him to proceed cautiously, avoiding all menace, through the passage before referred to, taking careful soundings, and making such scientific observations as would enable a correct chart of the channel to be made. Captain Blake was further instructed, in case a hostile attack were made, either upon his men or vessels, to reply by force, and destroy, if possible, the places and the people from whom the attack came; that any advantage gained should not be pursued by landing a force; but that he should quietly proceed in the further prosecution of the work in view until he reached the northerly part of the island of Kanghoa, and, if found to be practicable, should go a few miles up the river Séoul, but not attempt to reach the capital. After doing this he was directed to return to the flag-ship and report the result of his proceedings.

The two letters of instructions with reference to communicating with the natives, which had been given him on a previous occasion, Captain Blake still retained for his guidance on the present expedition. I also sent Mr. John P. Cowles, jr., acting assistant secretary of legation, with him as interpreter.

The vessels of the expedition left the anchorage here at 12 o'clock m., and steamed slowly, sounding as they went, without meeting or seeing any signs of hostile resistance until they reached a sharp point in the river indicated on the map as Fort du Conde. This name was given to the point by the French admiral, when he visited the locality in 1866. When the two vessels and three of the launches came directly in range of the two batteries, situated opposite each other, one on either side of the river, the matting and brush which concealed the guns were suddenly thrown aside and a fire opened upon them. I inclose a report from Mr. Cowles, to which I beg to refer for full particulars of the engagement.

The vessels silenced the batteries and drove the enemy from their fortifications. An unfortunate accident to the *Monocacy*, caused by

striking upon a rock, induced Captain Blake to return and report the result before proceeding further.

The Secretary of the Navy will receive a report in detail of the operations of the Navy, to which I am obliged to refer you, if further particulars are desired.

That the attack was unprovoked and wanton, and without the slightest shadow of excuse, must be as apparent to you as it is to me; for all our operations hitherto have been conducted with the greatest caution, in the hope that the assurances of our peaceful intentions, which were sent to the court from Peking, supplemented by similar protestations here, and coupled with an absence of all ostentatious show of war, would so fully persuade the government of our good faith that the result aimed at might be accomplished without the use or even the display of force.

The events of yesterday convince me that the government of Corea is determined to resist all innovations and intercourse with all the power at its command, without regard to nationality, or the nature of the demands made; and that all overtures will be treated alike, whether they look to the opening of the country and the residence and trade of foreigners, or whether they are confined, as I have endeavored, to securing humane treatment for our unfortunate countrymen who may be thrown by the perils of the sea upon these shores, whose safety and welfare depend, under present circumstances, upon the magnanimity of this semi-barbarous and hostile race.

The question now is, what is the safe and prudent course to pursue, in view of this temporary check, which the Coreans will undoubtedly construe into a defeat of the "barbarians," but which, according to the recognized rules of civilized warfare, was a complete victory on the part of the naval forces. In estimating the effect it may exert upon our power and prestige, which will affect the interests of our people in the East, the situation must be viewed from an oriental stand-point, rather than the more advanced one of Christian civilization. If the squadron retires now, the effect upon the minds of the Coreans, and, I fear, upon the Chinese also, will be injurious, if not disastrous, to our future prospects in both countries. Corea will rest firmly in the belief that she is powerful enough to repel any of the western states singly, or even all of them combined; and this opinion will be likely to react upon China, and strengthen the influence of those who insist that it is practicable to drive out by force all the foreign residents. In view of these considerations, I cannot advise the admiral to abandon the field without further attempts at redress for the wrongs and insults which our flag has suffered; at the same time I am fully impressed as to the inadequacy of the force at his command to carry on offensive operations to conquer this people and compel the government to enter into proper treaty engagements. The configuration of the coast, studded with islands; the shallowness of the rivers; the rise and fall of the tides, which vary from 20 to 40 feet; the rapidity of the currents in the rivers, and in passages between the islands and the mainland; the mountainous and broken character of the country bordering upon the coast and rivers; the distance of the capital and the other principal cities from the navigable waters, present obstacles which are not easy to be overcome without the presence of a considerable land and naval force acting in conjunction.

My own view is that a sufficient force should be sent back to the place where the vessels were attacked yesterday, to take and effectually destroy the fortifications above that place as far as the northerly end of the island of Kang-hoa. This the admiral expects to do, provided he finds

his forces are able to do it without incurring too much risk. That would make a virtual, though not declared, blockade of the entrance of the river Seoul, which leads to the capital, which can be kept up until the northern channel is sounded, and will afford active and useful occupation for the vessels of the squadron until the further orders and instructions of the President can be received. It may possibly lead the Korean government to make terms. Of this, however, I am not sanguine.

It is quite impossible to foretell what course events in the future may compel me to pursue. In any case, I shall not lose sight of the main object the Government had in sending me here, and shall endeavor to comply with the spirit as well as the letter of my instructions in the most peaceful and conciliatory manner compatible with the dignity of the Government I represent, and the honor of its flag. I am not unmindful of the fact that the general policy of the Government is peace, and that hostile operations in a distant portion of the world are to be most carefully avoided. But when the representative of the Government, sent upon a peaceful mission in the interest of humanity, is met by uncalled for attack, as has been the case here, any hesitation on my part in sanctioning the seeking of redress for the wrongs and insults which we have suffered might properly be set down as shrinking from a responsibility which I have no right to do, with the vast interests intrusted to my care. The admiral will send a telegram to the Secretary of the Navy, and I shall send a short one referring you to the Navy Department for details.

I have, &c.,

FREDERICK F. LOW.

Inclosures.

No. 1.—Mr. Cowles's report of the surveying expedition above Isle Boisé, and the engagement of Fort du Conde, of June 1.

No. 2.—Copy of telegram to the Secretary of State.

No. 1.

Mr. J. P. Cowles, jr., to Mr. Low.

UNITED STATES SHIP COLORADO,
Isle Boisé's Anchorage, Corea, June 2, 1871.

SIR: In accordance with your instructions, I yesterday joined Captain Blake upon the steamship Palos, to accompany a surveying expedition up the river Salée as an interpreter. You informed me that intercourse with the Coreans would be neither sought nor avoided; and that answer to civil inquiries about our purposes would be that yourself and Admiral Rodgers had already explained to officials from the court that it was our peaceful intention to survey the approaches to the Séoul River so soon as the delay yourself and the admiral offered to make, that they might assure the population along the margin of the river of our friendly character, had expired; that we should land only at uninhabited points, and that all nations offer facilities for such surveys of their coasts.

The party started at noon of the 1st instant, and consisted of the four steam-launches, under command of Lieutenant Commander Chester, Lieutenants Meade and Totten, and Master Schroeder; the Monocacy, Commander McCrea, and the Palos, wearing Commander Blake's divisional flag, as the officer in charge of the whole expedition, and under command of Lieutenant Commander Rockwell.

The launches led and indicated the channel to the gunboats following. Master Schroeder followed a mile behind, delayed by momentary accident.

Going northerly rapidly up the river, passing numerous forts to the left, on islands,

and to the right on the mainland. At 2 p. m. we were passing around an elbow of land to the east of our generally northerly direction. As we were entering a whirl, as bad as that of Hell Gate, New York, full of eddies and ledges, and immediately under a fort on the end of the elbow above mentioned, masts and screens were suddenly alive with the discharge of eighty pieces of artillery directly into the launches which were under the forts. The launches, as fast as the whirl and eddies allowed, turned their howitzers to the fort, and threw in some eight rounds of shell. The gunboats, though in the midst of a perilous navigation, trained their guns on the fort, and the Monocacy's 8-inch shell frightened the men in the batteries so much that they fled precipitately, and, wrenching up their innumerable flags and standards, retreated to ravines and brush cover, further back on the neck of the peninsula. The banner of "Generalissimo," as it appeared to be, in the headquarters on the top of the hill, was left flying.

The launches and gunboats were swept rapidly past to above and to the rear of the batteries. There they anchored, and leisurely shelled the forts and ravines near.

The Benicia's launch, Master Schroeder, being delayed by accident, was later in reaching the forts. Instead of avoiding the almost certain fate which running the batteries threatened, he pressed through to join his comrades above the fort, firing as he passed. They came through without harm, though they were wet with the splash of the water about them. The Monocacy having struck a ledge, and leaking badly, the further pursuit of the survey had to be postponed, and the party returned to the fleet at Boisé Island. The few shells thrown into the forts as we returned elicited no reply. The scientific character of the expedition had prevented orders being given to cover such an emergency. The party were therefore forced to return without spiking the guns and bringing away the headquarters flag of the enemy, as all were eager to be permitted to do.

Some two hundred discharges of light and heavy guns must have been made in the ten minutes that the launches were beneath the forts, and how the launches escaped with only two wounded seems marvelous. The guns were noticed as we returned, and lay nearly as thick together as gun to gun, and gun behind gun on the floor of an ordnance store.

The pluck of all engaged, but especially of the launches, words can do no justice to. Admiral Rodgers's comment you must allow me as mine: "There is no lack of pluck in the American people."

I have the honor, &c.,

J. P. COWLES, Jr.

No. 2.

Copy of a telegram sent this day to George F. Seward, Shanghai, to be forwarded from thence by telegraph, June 3, 1871.

[Telegram.]

COAST OF COREA, June 3, 1871.

My overtures of peace have been met by wanton attack upon surveying party. See admiral's telegram to Secretary of Navy.

LOW.

SECRETARY OF STATE, Washington, United States.

The above is a true copy.

F. F. LOW.

No. 34.

Mr. Low to Mr. Fish.

No. 73.]

ON BOARD FLAG-SHIP COLORADO,
Off Boisé Island, Corea, June 15, 1871. (Received August 21)

SIR: On the evening of the 10th instant a Corean junk came alongside, and from the actions of those on board we concluded that they desired to communicate with the ship. The interpreter whom I sent to ascertain their business, reported that the people on the junk were Christians; that three Catholic priests were looked for on the coast, and hearing that a foreign fleet had arrived, they naturally expected the

priests would have availed themselves of the opportunity to come. Their business was to ascertain whether any priests were on board our ships, and if so, to put the junk at their service, to convey them to any point they might choose. The coming of these people naturally excited my suspicion, but subsequent questioning fully satisfied me of their good faith. The zeal and religious enthusiasm which had induced them to run such risks to find their priests, impressed me profoundly with the power which the Romish church is able to exercise over an alien and ignorant people. These men evidently belong to the peasantry, as but few of them have any education. They were quite free to communicate any information they possessed, but owing to their ignorance and the difficulty of acquiring authentic information in such a country as this, their statements cannot be relied upon, except concerning facts that have come under their personal observation.

They represent that there is great discontent among the people generally, caused by the tyrannical conduct of the government and the exactions of the local authorities; that the will of the officials is the only law, and that summary executions is the universal penalty adjudged for its violation. They represent the number of Christians in the country prior to the persecutions of 1866 at 30,000, of whom 10,000 were sacrificed at the time the French priests were massacred; that not only the remaining 20,000 Christians, but a large minority, if not a majority, of the people beside, desire the overthrow of the present despotic and tyrannical government, and would join any movement foreign nations might make which would accomplish the result. As failure would involve the certain destruction of the natives who might join foreigners, it could not be expected that the standard of revolt would be raised until success could be reasonably assured. From them we gained considerable information in regard to the principal cities and their relative importance. The most important intelligence, however, was a connected and apparently truthful account of the destruction of the American schooner "General Sherman," in the Ping Yang River, in 1866. (See Dip. Corresp. 1867, Part 1, pp. 426, 427, 428.) One of the Christians affirms that he resided near the scene of the disaster, and was perfectly familiar with the whole proceeding. His story appears so reasonable when tested by the other information I have been able to gather concerning this people and their acts, that I feel bound to say that in my opinion it is substantially true. He says the people on board the schooner were enticed on shore by fair promises of civil treatment and trade, were entertained and treated to drugged spirit, during which they were fallen upon suddenly, seized and bound and all massacred. Some were beheaded, and the others were beaten to death with clubs. The cargo was taken out, and the vessel burned to get the iron used in her construction. They further say that the cannon found on board were taken out and sent to the capital, from which patterns were made and guns manufactured. This story was told in a plain straightforward manner without undue questioning. On the contrary, the interpreter endeavored to obtain a voluntary statement of the "General Sherman" affair, in order to test the good faith and truthfulness of these people. It corresponds so nearly with the account given by the French priests at the time, that I consider it more entitled to credence than the report of the officials made to the commander of the "Shenandoah" or that to the board of rites, Peking. It is unreasonable to suppose that the persons on board the schooner, the owner of which was largely interested in the cargo, would inaugurate hostile proceedings to force the natives to open trade; it is to be pre-

sumed rather that, as they were bent on trade and gain, they would endeavor by conciliation to induce the people to purchase the cargo. To be sure, the attempt to open commercial relations with this people had not the previous sanction of treaty right, or the permission of the government of Corea in any way, the entrance of the vessel into Corean waters being in violation of the laws and policy of the country. And while this is the fact, it affords no justification for the action of the government or people in the destruction of the vessel and cargo, and still less for the massacre of the people on board. The statements of the officials which have been reiterated so often and with such persistency are scarcely worthy of credence, and should be received with great caution. Were they honest in the belief that their action can be justified, or the truth of their statements substantiated, why did they oppose so persistently and prevent the "Shenandoah" and "Wachusett" from going to the spot where the vessel was wrecked, and making inquiry of the people who witnessed the whole affair, and thus satisfy the Government of the United States of the real facts? And why are the officials of all grades so profuse in their protestations to me of the primary offense of the people on board the schooner, and so anxious lest I should desire to make further inquiries into the facts? The Government, in its communications to the board of rites, Peking, you will observe, takes great pains to throw the whole responsibility for the disaster upon the foreigners, and insists that its statements shall be received and accepted without question by that of the United States. In view of all the evidence, direct and circumstantial, which I have been able to gather, the conviction is forced upon me that the statements of the Corean government in regard to the "General Sherman" case are unreliable and unworthy of belief, and that if the exact facts could be known, it would be found that the vessel was plundered and then burned, and the men on board wantonly and treacherously massacred.

It remains for the Government of the United States to say whether further efforts shall be made to ascertain the facts, and, if the government of Corea is found to be culpable, to demand and enforce means of redress, or whether the statements of this semi-barbarous and hostile people shall be received without question in justification of their acts of robbery and murder, committed upon the property and people of the United States.

I have, &c.,

FREDERICK F. LOW.

No. 35.

Mr. Low to Mr. Fish.

No. 74.]

ON BOARD FLAG-SHIP COLORADO,

Near Boisé Island, Corea, June 20, 1871. (Received August 21.)

SIR: My dispatches Nos. 70 and 71 informed you of all that had occurred up to the 2d instant, including the hostile reception the smaller vessels met with while absent on a surveying expedition. In addition, the latter contained my opinions with reference to what should be done immediately, without waiting further instructions, to prevent danger to the lives and property of our people in China as well as Corea. A careful review of the situation in consultation with the admiral, confirmed me in the opinions I had formed; and also that the dignity of the Government of the United States would be seriously compromised unless

reparation be sought, and enforced if necessary, for the unprovoked assault upon the vessels. It also seemed reasonable that a demonstration such as was contemplated would, if successful, convince the Government that we would not tamely submit to insult and injury, and so impress it with a sense of our ability to redress wrongs as to cause it to be more careful in the future. Nor did it seem likely that such a step would by any possibility lessen the chances of negotiation, and it might improve them, for evidences were multiplying that all our overtures made in a conciliatory spirit would be peremptorily rejected. Although fully impressed with this belief, and skeptical in regard to any favorable results coming through delay, I still deemed it my duty to discourage hasty action, and advised delay in seeking forcible redress and retaliation until the Government should have had time to learn the facts and disavow its responsibility for the outrage, if the course of the military authorities was unauthorized. In this view the admiral fully concurred; and besides, our success would be rendered more certain by a delay of ten days, as the state of the tides would then be more favorable, which would insure greater safety to the vessels and more efficiency to their co-operation. It was also decided to confine the movement to the capture and destruction of the forts that had participated in the attack upon our vessels, and not go beyond that point, although abundant precedent could be found to justify the infliction of the most extreme punishment and damage upon this government and people, after unprovoked hostilities had once been inaugurated by them in such a treacherous manner. I was the more inclined to confine our hostile efforts within these limits, because I doubted whether the President contemplated the use of force further than the redress of wrongs and insults, and because the capture and destruction of these defensive works would be likely to produce the same effect upon the government as any more extensive operations which did not include the occupation of the capital.

The correspondence with the local officials, copies and translations of which are herewith inclosed, will show the earnest and persistent efforts that were made to adjust the difficulty amicably, and the stubborn reticence of the government touching this particular affair, as well as all matters connected with my mission.

I deem it proper to observe, in this connection, that the history of negotiations and intercourse between western nations and oriental governments goes to prove that every artifice which human ingenuity can devise will be resorted to to maintain their own superiority, and prove to their people the absolute inferiority of foreigners. Refusal to negotiate is usually the first step, and when compelled by force or otherwise to recede from that position, every effort is made to induce foreign ministers to treat with native officials of low rank and position. In illustration of this peculiarity, I beg to call your attention to the communication from the King of Corea to the board of rites, Peking, (inclosure 5.) You will observe that a reply to my letter is evaded rather than refused. The King affirms, however, that "a minister of the Emperor must not have relations with a foreign state," and prays "that the Emperor (of China) will send forth a special edict to exhort and instruct" me in my duties.

My own observation and experience, as well as the experience of others, convinced me that concession on these points would lower my position, lessen my influence, and thus render the task more difficult; I therefore determined to adopt a firm and dignified policy—to demand as a right, and not solicit as a favor, those acts of courtesy due from one nation to another; to submit to no semblance of inferiority by consenting to consult or correspond with officials of inferior rank that might,

and probably would, be put forward to meet me; to seek such guarantees as would render reasonably safe the lives and property of American citizens that might be wrecked upon these shores as a right which the United States could properly claim for its citizens and not as a concession which Corea could grant or refuse with equal propriety. This course I have steadily pursued; and when officials of low rank came in person or wrote letters the secretaries were deputed to meet them and reply to their communications. This will explain why it is that the correspondence with the local officials has been conducted in the name of Mr. Drew.

The local official near here and his superior, the governor of Kang-Hoa, were informed that a disavowal of responsibility for the outrage was expected from the government, and that, to enable this to be done, a reasonable time would be allowed; and it was clearly intimated that the failure of the government to comply with this reasonable demand would leave the admiral at liberty to pursue such a course as he might deem proper to obtain redress. (See inclosures 2 and 6.) The replies of these officials (inclosures 3 and 4) contain, you will observe, nothing that can be construed into an apology. They simply express regret at the necessity, but approve of the acts of the military authorities. Indeed I feel sure that the governor of Kang Hoa has military as well as civil jurisdiction, and is really the person who planned the attack and issued the orders to fire upon the vessels. So great was the anxiety of the admiral as well as myself to avoid, if possible, further hostilities, that orders were given to Captain Blake and Mr. Drew (inclosures 7 and 8) to cause hostilities to be suspended whenever they could obtain any reasonable assurance that peaceful negotiations would be assented to by the government. They did receive, while on the way up to the forts and before the attack was made, a communication from the Kang-Hoa magistrate, (inclosure 9) but as it contained only a repetition of his former statement they very properly paid no attention to it.

The expedition started on the 10th and returned on the 12th instant. The work it was sent to do was successfully and fully accomplished. Five forts were taken, which, with the munitions of war found in them, were completely destroyed. About two hundred and fifty of the enemy's dead were counted lying on the field, fifty flags and several prisoners were captured and brought away; among the latter were some wounded. Several books, manuscripts, orders, &c., were found. The contents of these documents are interesting, and enable a better and more reliable estimate to be made respecting the attitude and action of the government than was possible from our previous sources of information.

It was deemed advisable to bring away but few prisoners, only a number sufficient to demonstrate that we do not treat prisoners that fall into our hands cruelly, and that wounded men, although enemies, are humanely and tenderly cared for. Our loss was three killed and nine wounded. For full particulars of the engagement I beg to refer you to the Navy Department, where complete reports of the admiral will be found.

All accounts concur in the statement that the Coreans fought with desperation, rarely equaled and never excelled by any people. Nearly all the soldiers in the main fort were killed at their posts. They exhibited a bravado and recklessness that it is hard to account for upon any other hypothesis than that finding there was no chance for escape, and believing that no quarter would be shown by us to prisoners, they concluded to perish fighting, even after all hope of success was gone; either this, or that their government had threatened the soldiers defending that particular fort with dire retribution in case of defeat. Some

such reasons must have existed, because there were outside of the fort, but in the immediate vicinity, several thousand troops which were kept at bay by the field artillery with small effort. Instead of recklessly rushing on to destruction, these troops showed little inclination to come within the range of the weapons of our troops. A proposition was made to release the prisoners on parole, (inclosure 10,) to which a reply was returned (inclosure 11) saying that the prisoners had incurred a severe penalty from their own government by surrender, and it was immaterial whether they were released or not. After a detention of a few days they were all unconditionally released. It is to be hoped that our humane treatment and release of these prisoners may disabuse the minds of the common people of their unjust suspicions regarding foreigners, and induce the government to spare the lives of those who may by misfortune or reverses in war fall into their hands.

The officers and men engaged in the expedition all behaved nobly. Their gallantry and heroism were conspicuous, reflecting upon themselves great credit, and upon the Navy and the Government represented by it honor and renown. I should be doing less than my duty were I to omit to add my testimony to these acts of devotion, or to acknowledge my obligations for the cheerful co-operation of Admiral Rodgers, and the zealous and efficient support of the officers of the fleet in all things where the honor or interests of the United States are involved.

On the 15th instant, I addressed a dispatch to the King, (inclosure 15,) and caused it to be sent to the prefect of Foo-Ping-Foo with a request that it should be sent to the capital. It was returned on the 17th instant with a note from the prefect (inclosure 16) saying that he dare not forward a dispatch to his sovereign. To this I caused a reply to be sent (inclosure 17) requesting him either to send the dispatch or inform the court that I desired to communicate with His Majesty or a high minister. This met with the same refusal as the former one had, (see inclosure 18.)

The first opportunity that offers will be availed of to open communication with the government, if it can be done without discredit, nor will my efforts to accomplish what the Government desires be relaxed until all reasonable and honorable means are exhausted, and I am convinced that further delay will serve no useful purpose. I have, however, little hope of bringing the King to any proper terms. Everything goes to prove that the government from the first determined to reject all peaceful overtures for negotiation or even discussion; and that the recent demonstration, which would have produced a profound impression upon any other government, has little or no effect, favorable or otherwise, upon this. The operations of the 10th and 11th were more significant than those of the English and French in 1858, when the capture of the Taku forts at the mouth of the Peiho River, caused the government of China to immediately send ministers and conclude treaties at Tientsin, and yet this government shows no sign which leads to the belief that there is any change in its attitude of defiance to all other nations.

I have the honor, &c.,

F. F. LOW.

Inclosures.

No. 1. Paper found attached to a pole on Guerriere Island, from the prefect of Fu-Ping, 3d of June, 1871.

No. 2. Reply of Mr. Drew to prefect of Fu-Ping, an explanation or disavowal of the attack of June 1 required, 5th June, 1871.

9 F B

No. 3. Prefect of Fu-Ping to Mr. Drew. Reply to foregoing will be made by his superior officer, 7th June, 1871.

No. 4. Kang-Hoa high magistrate's reply to No. 2; attack of June 1 regretted but justified, 6th June, 1871.

No. 5. King of Corea to board of rites, Peking.

No. 6. Mr. Drew to Kang-Hoa high magistrate; his letter (No. 4) not satisfactory, 7th June, 1871.

No. 7. Admiral Rodgers's instructions to Captain Blake for Fort du Conde expedition, 9th June, 1871.

No. 8. Mr. Low's instructions to Mr. Drew, for same expedition, 9th June, 1871.

No. 9. Kang-Hoa high magistrate, to Mr. Low in reply to No. 6, 9th June, 1871.

No. 10. Mr. Drew to Kang-Hoa high magistrate, prisoners will be released on parole, 13th June, 1871.

No. 11. Prefect of Fu-Ping to Mr. Drew, in reply to No. 10, 14th June, 1871.

No. 12. Prefect of Fu-Ping to Mr. Drew; indignant comments on the capture of Fort du Conde, 12th June, 1871.

No. 13. Memorandum of intimations that a reply is wanted to No. 12, 13th and 14th June, 1871.

No. 14. Mr. Drew to prefect of Fu-Ping, in reply to No. 12, inclosing dispatch from Mr. Low to King of Corea, 15th June, 1871.

No. 15. Mr. Low's dispatch to the King of Corea, 14th June, 1871.

No. 16. Prefect of Fu-Ping to Mr. Drew; he declines to forward and returns Mr. Low's dispatch to the King, 17th June, 1871.

No. 17. Mr. Drew to the prefect of Fu-Ping, 18th June, 1871.

No. 18. Prefect of Fu-Ping to Mr. Drew; reply to No. 17; still declines to forward the dispatch to the King; reasons assigned, 20th June, 1871.

No. 1.

Translation of paper found attached to a pole on Guerriere Island, June 3, 1871, and brought on board the Colorado.

In the fourth month of the year, Mow-chew, [1868,] Captain Febiger, captain of your honorable country's admiral's vessel, came and anchored in the Barrier Cantonment of the marine guard of Jaw-Ho prefecture, Ping-Yang province. I was at that time the prefect. The communications between us offered no cause of offense, the one to the other, and the captain went away peacefully.

Now, again, your honorable country's vessels come and anchor within the borders of the prefecture of Foo-Ping, and truly in a different manner. I avail myself of this communication. Do not hold back your valued reply.

Our kingdom is placed east of the Eastern Sea. Your honored country is located west of the Western Ocean. All winds and sands for the extent of more than 70,000 li. (23,000 miles.) How can there ever have been vessels coming and going between us? From Tan-Chi [early Korean king] down these 4,000 years there has been no communication between your country and ours. It may then well be said that it is Heaven's limitation that has placed us so remote from each other, and earth that has hung us so far apart as to cut us off from each other.

Our respective dispositions are mutually dissimilar; our guiding principles are not alike.

We find that in the autumn of the year Ping-Yin [1866] there suddenly arose a troublesome involvement [of us] in a matter of mutual concern. The destruction in the Ping-Yang river [of the General Sherman] was brought swiftly on by themselves; and for the wreck in the Kang-Hoa prefecture, who is to be blamed?

There was formerly not a particle of ill-feeling existing between us. Why should arms now drag us into mutual resentment? Yet, unless destruction leave [you] to repentance, you will again be taking upon you to constantly return toward us. What affairs would you transact? What words speak? Will you wish to take possession of

our land and people, or will you wish to consult upon and carry out friendly relations? If you are going to want us to give away land and people, then let me ask how can 3,000 li [1,000 miles] of river, hill, city, and country be lightly thrown away? If you will desire us to agree to negotiate and carry out friendly relations, then let me ask how can 4,000 years' ceremonies, music, literature, and all things, be, without sufficient reason, broken up and cast away? It does not consist with right, it cannot be spoken of.

You do not hold the course of justice, [*lit.*, as the bear keeps to his native hill, and the fish keeps his native water,] but, on the contrary, dare to consult mere expediency. [*lit.*, act as the heron with the shell-fish.] Having experienced every difficulty and danger in tossing over billowy seas [to our country,] how long, let me ask, can you annoy [*lit.*, ravage] district and prefecture?

It would be better early to mark out a right course of action and each remain peacefully in his own place.

We inform you, that you may ponder and be enlightened.

From the general guardian of Foo-Ping prefecture. [No name signed.]

No. 2.

Reply to a communication found on Guerriere Island, on Saturday morning, June 3.

A reply from Edward B. Drew, acting secretary of legation of the United States.

A communication was found on shore two days since, purporting to come from the guardian general of Foo-Ping prefecture, which has been read, and the contents thereof made known to the minister and admiral.

They have instructed me to make reply, that our intentions in coming to your country were peaceful, as was announced to your sovereign by letter from Peking in advance. He was told that the minister had important business with the government, and hoped that a person of high rank would be sent to meet him when the vessels reached the coast of your country, to whom the full particulars could be made known, and with whom all matters could be arranged and settled. This course is still open if the King chooses to avail himself of it.

We do not want your land or men, nor anything that will affect your ceremonies, music, or literature.

Your people have met our peaceful overtures by an unprovoked and wanton attack. The admiral hopes that it will prove that all this was done by the common people, without the sanction of the government; and has concluded to allow sufficient time to pass to enable the King to learn of it, and send an apology for this outrage if it was unauthorized, before taking any further steps. It now lies with your government to say whether it will disavow this outrage, and send a high officer to meet and consult with the minister, and endeavor to settle the business in an amicable manner, or whether, by failing to do so, leave the minister and admiral to pursue such a course as they may deem proper to obtain redress for the wrongs done to us. It is a question which His Majesty should seriously consider before taking up a warlike attitude. Five or six days longer will be allowed the government to consult and determine what it will do.

When Captain Febiger was here, he was told that the King could not treat with him because he did not come by order of the President. Now the high minister of the United States to China is sent by special orders of his sovereign, with the most peaceful intentions and friendly assurances, and without warning you fire upon the vessels and try to destroy them. How is this? The vessels now here are part of a large fleet that is constantly kept by the Government on the coasts of China and Japan. When they need repairs, others are sent to take their places. They are constantly within two or three days' sail of your country, and if they choose, can destroy your towns and annoy your districts and departments for an unlimited number of years. But this is not our wish. We desire peace and friendly feelings to exist between our country and all others. China and the United States are friends, and the high ministers of each country are received in the other and treated with respect. If anything occurs which may lead to trouble, it is discussed and settled in a friendly manner, without resorting to hostilities.

If the government sends any notifications of its intentions, the communication should be sent to the ship. No boats or messengers will be molested that bring letters or persons who desire to discuss matters with us.

A necessary communication.

JUNE 5, 1871.

TO THE GUARDIAN GENERAL OF FOO-PING PREFECTURE.

No. 3.

Li. Guardian General of Fu-Ping Fu to Mr. Drew, June 7th.

A communication in reply. On receipt of your dispatch in answer to my former one, I read its contents carefully.

I have control of local matters only, and dare not take on myself to discuss any matters belonging to the central government; I have accordingly transmitted your reply to my superior officer, the minister, who is general and governor of Kang-Hoa prefecture; and have to-day heard that a dispatch from him has just been sent on board your honorable vessel.

I trust that all future correspondence will be carried on with the official above named, as I cannot presume to interfere in it further.

A necessary communication in reply to Mr. Drew, acting secretary of legation.

TUNG-CHIH, 10th year, 4th moon, 20th day, (June 7, 1871.)

No. 4.

Translation of dispatch brought on board Colorado from Kang-Hoa high official.

Cheng, guardian of the prefecture of Kang-Hoa, Corea, *ex officio* general and governor, sends a communication to his excellency the American minister.

In the spring of this year the board of rites, Peking, forwarded a dispatch conveying a letter from the honorable American envoy; to this my government speedily sent a reply, fully discussing the matters referred to, which it was requested might be transmitted through the same channel [board of rites] to your excellency.

We feel that—inasmuch as politeness and deference are held in such general estimation in your honorable country that she has long possessed a fame far beyond all other states—your excellency must most probably so clearly comprehend the propriety of things as to take no light or hasty action. Why now do you cross from afar the vast ocean to penetrate another country? Even though you disclaim all purpose of killing or harming us, who can help being puzzled and suspicious?

The barriers of defense of a country are important places, within which it is not allowable for foreign vessels to make their way [without some previous understanding.] This is the fixed rule of all nations. Hence it was the ascent [of the river] to the sea-gate by your vessels the other day that brought on the engagement between us. [literally, the affair of mutual firing and alarming,] which, as you say that your intentions in coming [to this country] are good, it is much to be regretted should have occurred. On the arrival of your vessels, the court warned the civil and military authorities along the coast to avoid most carefully anything which should cause trouble or arouse ill-feeling, yet when your honorable vessels, not considering the fixed regulation of another country, penetrated its important pass, how could the officers, appointed to guard [the closed portals of] the frontier, whose duty it is to take measures of defense, calmly let it go by as of no consequence? Pray do not then be offended at what occurred.

It is not perhaps because the board of rites at Peking had not yet transmitted our reply, [to your letter to the King of Corea,] thus leaving your excellency unacquainted with the various circumstances of my country, that [your coming to Corea] has taken place. Therefore, I now have the honor to inclose duplicate of this reply, from the perusal of which you may perhaps derive full and complete information. The non-intercourse of Corea with foreign states is a settled principle, established by our ancestors five centuries ago; a principle of which the whole world has heard, and of which the Emperor of China also is graciously aware. It is precisely because we must not break through the ancient policy [of our ancestors] that we cannot discuss and cannot settle that which the honorable envoy desires to discuss and to settle, whatever it may be. Why do you then wait for a high official to meet you?

The myriad lands and the countless living sustained on the earth, and canopied by the sky, should all act in consonance with the nature originally bestowed upon them, and it is the will of Heaven and earth that the states of the East, and the nations of the West, regulating each in its own way its administration and its doctrines, and governing each its own people, should move on prosperously and concordantly without encroaching upon and taking away what is another's. Surely your excellency is acquainted with this truth.

Appreciating the hardships of a voyage of 10,000 li of wind and wave, I send some worthless articles as a trifling assistance to your table, as becomes the host. I trust

you will not refuse to receive them, though insignificant. I am aware of the deficiencies of this dispatch.

A necessary communication.

TUNG-CHIH, 10th year, 4th moon, and 19th day, (June 6, 1871.)

[NOTE.—With the foregoing were brought three bullocks, fifty chickens, and one thousand eggs, which were declined.]

No. 5.

Translation of duplicate of the King of Corea's dispatch to the board of rites, Peking, in reference to his excellency Mr. Low's letter, of 7th March, sent to the King through the board.

A communication in reply. On the 10th April I received the honorable board's dispatch forwarding copy of the record of its bureau of foreign relations to this effect: "This board on the 22d March memorialized the Emperor in reference to the transmission of a letter to Corea, and on the same day the great council returned a minute stating that it had reverently received the imperial will. We have taken due note. This minute being received by the board, its duty is to send copies of its original memorial, the imperial edict, the Tsury-li Yamen's original memorial, and the American letter to the King of Corea for his cognizance in the premises," and accordingly inclosing copies of the Tsury-li Yamen's memorial, the board's memorial, and the American envoy's letter.

Besides acknowledging receipt of the board's dispatch, with its several inclosures, I would humbly observe that the service of forwarding the letter is indeed out of the usual course. I ascribe it to the board's anxiety that no mistake should be made in a matter of such delicate concern. The board has performed this special act in respectful intimation of the Emperor's fostering favor toward me; and for such perfect attentiveness I am inexpressibly grateful.

The letter forwarded by the admiral's envoy has reference primarily to two merchant vessels which came to this country in 1866, one of which was wrecked and her crew saved, while the crew of the other was killed, and the cargo destroyed; the American Government not knowing why such very different treatment as this was exhibited, wishes to inquire into the circumstances. Furthermore, it desires that some arrangement be devised for the relief of any American merchant vessel which may in future meet with disaster on this coast, and that friendly treatment should be accorded, &c.

Our humble country has the sea on three sides, and whenever stranger vessels of a foreign nation come to our shores in distress, they are either assisted with food and whatever they require, and enabled to sail away again; or, if the vessel is disabled or lost, her crew are escorted through by land to the supreme capital, [Peking,] thence to be sent to their homes; in each case the wishes of those concerned are regarded, and no obstacle is raised. In this we do not fail reverently to give effect to the exceeding benevolence and plenteous virtue of our holy dynasty, [the present dynasty of China,] which desires all things without exception, under heaven and upon the earth, to follow out their original nature, and the outpost state [Corea] has held this custom as to vessels in distress as its firm rule and established policy for a long period. Moreover, there have been from first to last three occasions of American subjects particularly having been rescued in distress, and sent forward under protection, viz, in the 5th year of Heen Feng, the 4th of Tung-Chih, and the 5th of Tung-Chih, [1855, 1865, and 1866.] The dispatches are all in the archives of the honorable board, and as the affairs were comparatively recent, the country in question can hardly fail to have a knowledge of them. When men have come from afar through the dangers of the sea, they are objects of sympathy; how then could any one think it right to maltreat and destroy them?

The statement about a vessel being destroyed, and her crew killed in Corea, has reference, no doubt, to the event of the autumn of 1866, in the Ping-Yang River, [General Sherman.] The details of that affair were all set forth in the dispatch to the board of the 22d day, 8th moon, 5th year Tung-Chih, [September 30, 1866,] and need not now be reiterated. Again, on the 25th day 3d moon, 7th year of Tung-Chih, I wrote in reply to a dispatch from the board of rites still more explicitly, and inclosed copy of the answer of Poo Cheng-hway, intendant of Hwang-Hai province, to the American commander, [of the Wachusett,] which answer had been prepared and held in readiness for delivery; on this occasion the board was further prayed that the American envoy might be so admonished [by the Emperor of China] as to resolve his doubts and suspicions and prevent further confusion.*

Again, in the 3d moon of the 7th year of Tung-Chih, the American Commander Febiger came, saying that he wished to inquire into this affair, and presented dispatches to the different local magistrates of Ping-An and Hwang-Hai. These magistrates answered very clearly, giving the circumstances of a strange vessel having

* Vide inclosure 1, Captain Febiger's report to Admiral Rowan, of date Chefoo, China, May 19, 1868.

pushed her way in the autumn of 1866, of wounds and injuries inflicted on the inhabitants, of the detention with indignity of an officer, and of the consequent exasperation of the people, resulting in self-provoked disaster and destruction; they made a complete explanation to dispel all doubts, and Captain Febiger, on receiving the reply, went away. I ventured to think that thenceforth the people of that country, knowing fully the affair, and understanding the right and wrong of it, there would be no more occasion for coming with doubts and suspicions to make inquiry. Why now does the American minister, in his letter, again express ignorance as to the rescue of one of the crews, and the destruction of the other?

He says that the Government of the United States has so much regard for its sailors and countrymen that it will never permit other countries, as they please, to misuse or destroy them; this, surely, is a point in which all nations are alike. America will not allow its people to be maltreated; nor will this country allow its people to be maltreated. In this respect, if we exchange places and reflect, there is surely no difference. Such being the case, the reason for the self-provoked destruction of the vessel in the Ping-Yang River is perfectly intelligible without stopping to discuss it. We appeal to the natural public sentiment of justice among men, and to the controlling presence of God and the spirits. If the American vessel had not abused our people how could the Corean officials and people have wished to maltreat them first?

The letter under consideration expresses the hope that friendly treatment will be accorded. If the strange states of the extreme sea desire a relationship of good will with us, then, in reverent imitation of the virtue of the great dynasty which treats kindly men from afar, we shall prove not to be ignorant of the usages of hospitality. But as to the expression, "consult and arrange about intercourse," I do not know what it is wanted to "consult and arrange," and what the intercourse desired is to be about. "A minister of the Emperor must not have relations with a foreign state."

For kindly commiserating and sending home the crews of foreign ships which have met with disaster, not only has our country a constant rule of its own, but it also imitates, in this regard, the profound benevolence of the heavenly dynasty [of China;] then, without waiting to "consult and arrange," the minister may feel secure from all apprehension. But supposing he does not cherish good will, but comes to commit wanton violence, then in keeping them off or destroying, them we shall also be discharging our natural duty of shielding the heavenly dynasty. It is quite enough for the American Government to hold in control its own people, and keep them from improper interference with others; why go so far as to discuss whether there shall be intercourse with foreign states or not?

Heretofore foreign nations have been in ignorance of the character and productions of this country, and we have been repeatedly pestered with applications for commercial intercourse; but that is entirely out of the question with this country, and that merchants would not find it profitable was set forth in a communication to the board in the fifth year of Tung-Chih, somewhat as follows: It is universally known that our humble state is a small dependency in a corner of the seas; that the people are poor and the articles of commerce scanty; that the precious metals and precious stones are not found here, while grains and cloth fabrics are not abundant; that the productions of the country are insufficient to meet domestic wants; and if they were permitted to flow out abroad, thus impoverishing us at home, this insignificant land would certainly be in extreme danger, and difficult to protect from ruin; furthermore, that the habits of the people are sparing and plain, the workmanship rude and poor; and that we have not a single article worthy of commerce with foreign nations. The constant wish for commercial intercourse, while the utter impossibility of this country's entering into relations of trade, and the unprofitableness of it also to foreign merchants, are such as are above described, is no doubt to be ascribed to the want of full knowledge on the part of the people of remote countries on the subject.

Now, although this letter of the American envoy has not spoken out fully, yet as it asks for an official to consult and arrange [business] affecting both countries, it most likely alludes to this sort of thing, [viz, commercial intercourse.] As the rescue and forwarding home of shipwrecked crews is provided for by existing laws, it is unnecessary to take further trouble to make a fixed arrangement. Besides this subject, there is nothing else to consult and settle, and it is not necessary to come and go to and fro to no purpose.

I humbly hope that the honorable board will lay before the throne all the facts connected with this matter, and that the Emperor will send forth a special edict to exhort and instruct the envoy of the nation in question so as to overcome the doubts and dispel his anxiety, and thus each of us be left to himself without trouble. I shall then be inexpressibly happy. In my insignificance, relying on the Emperor's love and affection, I have emptied my whole heart in extreme fear and reverence.

The contents of the letter of the American envoy do not indicate that a reply is expected; nor should I. The ruler of a colonial state dare not commit such a breach as to trouble the honorable board to forward a reply.

I solicit your intelligent glance and your indulgence.

No. 6.

Edward B. Drew to guardian of Kang-Hoa and ex officio general and governor, June 7, 1871.

The undersigned has the honor to acknowledge the receipt of your letter addressed to his excellency the minister, inclosing a copy of one from the government to the board of rites, Peking. The contents thereof have been made known to the minister and admiral; and I am instructed to reply that they regret to see a disposition on the part of the government to decline all friendly discussion of the business which his excellency is sent to transact; and instead of apologizing for the unprovoked attack upon our vessels, the course of the military authorities is justified.

The admiral hoped it would prove that the attack was unauthorized, and that when the news of it came to the King he would disavow it, and send a high official to consult with the minister.

The admiral concluded to allow sufficient time to elapse for this to be done before taking any further steps. Three or four days of the time allowed still remain, and if, at the expiration, no disposition is manifested on the part of His Majesty looking to peaceful consultation and arrangement, the admiral and minister will then feel at liberty to pursue such a course as they may deem proper. In consequence of the shortness of the time now remaining for you to come to a decision, I deem it better to send this short reply rather than wait to make a full answer to your note.

The minister and admiral direct me to say that while they highly appreciate the kindly disposition manifested in sending the presents, they cannot, under existing circumstances, be accepted, and are therefore respectfully declined.

No. 7.

Admiral Rodgers to Commander H. P. Blake.

U. S. S. COLORADO, ISLE BOISÉE ANCHORAGE,
Corea, June 9, 1871.

SIR: The attack to be made upon the Corean forts on the Salée River, which recently treacherously fired on our surveying party, is committed to you.

The attacking force will consist of the "Monocacy," "Palos," the four armed steam-launches, and the armed launches and boats of the fleet; the latter conveying the landing force detailed from the ships, under the immediate command of Commander L. A. Kimberly.

The vessels are to approach the point selected for anchorage, shelling the forts and drawing out the soldiers occupying them, before the boats are permitted to leave the ships to make the landing.

When the enemy shall have been driven out of their works, the force under Commander Kimberly will effect a landing, the armed launches supporting and covering the debarkation. The most serious difficulties which I apprehend lie in the natural obstacles of rocks, shoal water, and furious currents; and if it should be found impossible to hold the vessels in the position necessary to secure the boats and to cover the force on shore, you will embark the landing party at your discretion.

The object sought in this expedition being simply to take and destroy the forts which have fired on our vessels, and to hold them long enough to demonstrate our ability to punish such offenses at pleasure, it is my present purpose to withdraw the whole force after a period of about twenty-two hours has elapsed, or at the last of the flood-tide of the day following the capture.

Should you decide that the position gained may be held indefinitely long, or that there is a prospect of any material advantage in doing so, you will then, by steam launch, communicate with me.

The only object sought by the expedition to this country is to make such a treaty as the minister has been instructed by the Government to secure, if he may; and you will therefore take advantage of any overtures which may be made toward peace, if they shall seem to you to offer a reasonable opportunity of attaining the ends which the Government has in view, or to afford a cover for the withdrawal of your force should that be desirable; referring, of course, the matter of terms to be granted to the minister and myself.

All that I have here written has been amply discussed; but should incidents arise giving an unexpected complexion to the aspect of affairs, you must use your discretion.

Anything you shall decide upon will, I am sure, meet deserved approval.

Wishing you and your command success and a safe return,

I am, &c.,

JOHN RODGERS.

A true copy.

H. G. B. FISHER, *Secretary.*

No. 8.

F. F. Low to Edward B. Drew.

SIR: It is the intention of the admiral to send an expedition to-morrow to Fort du Conde to take and destroy it, if possible. The whole will be under the immediate command of Homer C. Blake, esquire, U. S. N., who will be furnished with full and explicit instructions by the admiral. I desire you to accompany Captain Blake on the "Palos" to facilitate communicating with the native officials, if opportunity offers.

As the object of my visit to Corea is to open negotiations with a view to making a treaty, this fact should be kept prominently in view; and the admiral has so instructed Captain Blake. The naval forces are simply a means to an end. If, therefore, at any time during the absence of the expedition, overtures should be made by which it would appear that there is a reasonable prospect of a minister being sent to confer and consult with me, and that further offensive operations would be likely to embarrass friendly negotiations, it is my desire that all hostile action should cease as soon as it can be done with safety and honor. The decision touching this latter point will rest with Captain Blake, guided by his instructions; but you are at liberty to make known my views to him if you deem it advisable.

I am, &c.,

FREDERICK F. LOW.

True copy: EDWARD B. DREW.

No. 9.

Translation of dispatch brought by a junk and intercepted by the expedition to Fort du Conde, on the 10th June.

Cheng, guardian of Kang-Hoa-fu, Corea, ex-officio general and governor, makes a reply to his excellency the American minister.

I beg to observe that your honorable dispatch contains many things I had not anticipated. I am still [as when writing you before] perplexed and pained. As your excellency said you were coming on a peaceful and friendly errand, our court proposing to treat you in a befitting manner, before [receiving from you information of your arrival,] sent officials of the third rank to inquire whether your voyage had been prosperous, and further to ask what the business was which you wanted to discuss and arrange.

This was the course of politeness, but contrary to expectation your subordinate officials said that those persons were not of high rank, denied them an interview, [with your excellency,] and sent them back. Before the officials who had been sent to inquire of the fatigues of your voyage got back to the capital, your honorable vessels suddenly entered our narrow pass [from the sea.] Although you had said that you would inflict no injury, yet, as the vessels on board which you came [up the river] were vessels of war, and were full of implements of war, our people and soldiers could not but be filled with alarm and suspicion, and knew not what to make of it. Now, I apprehend that the way of concord and the rule of propriety in entering another country do not justify this. As this place has before been the scene of battle, it is always strictly guarded. Although I deeply regret the firing affair—induced by the sudden sight of an unusual thing—and the alarming of your people, still, to defend a pass leading into your territory is what you would do were the case your own.

Your blaming us recently—as is shown by the [demand for an] apology is truly incomprehensible. Your excellency's insistence upon meeting a high official with whom to consult and settle matters, I presume from your letter of last spring, had reference solely to the affairs of the two merchant vessels in the year 1866. Of these, one was destroyed, while the crew of the other was rescued; and you wished to get at the reason for this difference of treatment, and to make provision for future cases of disaster to American vessels on our coast. That one of the vessels [alluded to] was a trader of your country was not known to us; and the violent and lawless Tsuy-Lan-heen, who came in her, himself brought on the destruction that occurred—it was not our people who maliciously commenced it. The dispatches that have passed first and last to clear up your suspicions [in this case] have not been few, and it is not now worth while to discuss it further.

As to rescuing American vessels in distress, our country already has a regulation on this point, and there is, therefore, no necessity for going further and laying it down after consultation.

Again, as our country and yours are separated several myriad li, as if our borders were under a different heaven, we do not interfere with each other's tranquillity; then

without waiting to lay it down in a definitive *compact** peace exists already in the very fact [of our distance and non-interference.]

To go into a lengthy discussion and debate for more or less, while friendship is what is wished for, will only lead to trouble. With these considerations your excellency can clearly decide which course would be advantageous and which the reverse. Instead of taking such steps as you please, you should rather reflect and consider well what I have said.

Why should you have been so narrow as to decline the trifling presents offered? I cannot sustain my regrets at this.

A necessary communication, 10th year of Tung-Chih, 4th moon, 22d day, June 9, 1871.

No. 10.

Mr. Drew to Cheng, guardian of Kang-Hoa prefecture, ex-officio general and governor.

The soldiers and officers of your honorable country who were taken prisoners by us in the fight of the 11th instant, are now held on board our ships, where they are being supplied with food and taken care of. If your excellency desires their return, they will be released on requisition by you, accompanied by a distinct undertaking that they shall not fight against us again.

A necessary communication.

TUNG-CHIH, 10th year, 4th moon, 26th day, (13th June.)

A list of prisoners—15 in number, wounded and unwounded—accompanied the above.

No. 11.

Translation of a dispatch received 15th June, 1871, on Guerriere Island, by hand of two messengers from the magistrate of Fu-Ping prefecture.

Li, guardian general of Fu-Ping prefecture, Corea, makes a communication in reply. I have received and read the dispatch handed upon the sea-shore, viz, that which was to be forwarded to his excellency the authority of Kang-Hoa. Your honorable ships, coming with professions of friendliness and amity, delayed our military plans and caused us consequent loss. His excellency the magistrate of Kang-Hoa, has already incurred our court's severe reprimand. He already is under punishment, but is retained at his post. He is calling out and selecting soldiers and braves, and is steadily preparing picked and keen (men and material) with the purpose of satisfying in the fullest degree his anger; I therefore do not dare to forward your communication for his perusal. The question as to whether or no our soldiers taken prisoners shall be released and returned rests alone with you for decision. At the beginning of the breach between us, the joining of battle was first from your honored part. How then do you now say "joining battle will not be allowed?" (See note.) If you shall come to join battle, then with battle will we meet you, and there's an end (of the discussion.) He therefore makes this reply.

A necessary reply is above communicated to his excellency the American imperial commissioner, Tung-Chih, 10th year, 4th moon, 27th day, (June 14, 1871.)

NOTE.—He takes the passage of Mr. Drew's dispatch stating that a condition of the release of the prisoners would be a promise that they shall not again take up arms against us, and making the phrase apply generally to all Korean soldiers, asks "Since fighting was at first upon your own motion, with what propriety do you now say 'joining battle will not be allowed?'"

No. 12.

Translation of dispatch brought on board United States steamer Colorado, June 12, 1871.

Li, guardian general of Foo-Ping prefecture, makes a communication.

Politeness, of course, characterized our reception of you since your honorable ships came professing friendship and amity. But the course of friendship and amity, where shall we find in your abrupt dismissal of our officials who came with inquiries as to your suffering, [on the voyage;] in your wrongly entering the territory of Kuan-Hai,

* The two characters used in Chinese for "treaty" mean literally peace-compact.

(locality of the action of 11th instant,) ignoring your ship's short-comings from the right, and only blaming our soldiers for attempting to ward off calamity; in your utter unwillingness to listen, and your sole interest upon raising a disturbance, when the affairs had already been completely solved in correspondence?

Looking at it now, one can know thus much for certain: under outward professions of friendship you cherish false and deceitful designs. To come to your landing, and thoroughly displaying your forte of committing public buildings to the flames, burning cottages, stealing property, sweeping up everything to the veriest trifle. These are the actions of thieves and spies. In your ships you have brought many of our kingdom's outlaws, rebellious brigands who have forfeited life, to connect yourselves with and collect such a following as guides to our neighborhoods. This is to become the lair whither pirates flee.

The upshot will be a wild and disorderly discharge of gun and cannon, the battering down of walled town and fort, the slaying and injuring army and people. Where was such unsparring and implacable savagery ever exceeded? You come with professions of friendship and amity, and wish us to treat you with politeness, and your actions, forsooth, are such as these. Not only will every urchin of our kingdom spit at and curse you, but more yet in the world but will indignantly sympathize with us, and debar you from intercourse, and break off such as you already hold. I had not thought that such as these would have been the actions of one intrusted with his kingdom's commission to bind in friendship another kingdom.

In those sea-ports where your ships shall hereafter arrive, who will be willing again to meet you with politeness, discuss the obligations of good faith and renew friendship? I conceal the shame I feel for your honorable vessels, the shame I feel for your honorable country.

A necessary dispatch is above communicated to the secretary of the American imperial commissioners.

[Dated.] TUNG-CHIH, 10th year, 4th moon, 25th day, (11th June, 1871.)

No. 13.

On Tuesday morning, 13th June, a paper was found attached to a pole on Guerrière Island, which read thus:

Messengers from the guardian general of Fu-Ping Prefecture [are in want of a reply to the letter brought by them on Monday, 12th June.]

On Wednesday morning, 14th June, a paper was found attached to a pole on Guerrière Island, in which the Fu-Ping Prefect again urges for a reply to his letter of the 12th June. It reads thus:

To his excellency, Mr. Drew, chief secretary of the minister: On the 25th day of this moon (June 12) I sent your excellency a letter. I cannot sustain my anxiety that it has not yet been answered, and again send this to trouble you for a reply.

Sin Wei year, 4th moon, 27th day. (14th June, 1871.)

From Li, guardian general of Fu-Ping Prefecture.

No. 14.

Edw. B. Drew to Guardian of Foo-Ping Prefecture.

I had the honor to receive your note, dated the 12th instant, in which you complained in unbecoming language of the results which necessarily followed the wanton attack upon our vessels.

Correspondence between officials, of whatever rank, should contain none other than respectful and polite language; and as you choose to disregard the rule in this respect, it did not occur to me, until your communication came this morning, that a reply was expected.

The occurrences of the last few days, and the necessary consequences of the evil acts of your officials, of which neither you nor your government have just grounds of complaint. The minister and admiral regret the necessity which compelled this action. They hoped your government would make such reparation as would render forcible redress unnecessary. Ample time was allowed for this to be done; but instead of responding to our overtures for peace the government remained silent, and the officials from whom we heard, yourself among the number, apparently justified the attack upon our vessels. Under these circumstances how could you expect immunity? The operations of the naval forces have been confined to destroying the places from which we were assaulted and routing the soldiers that defended them; although you cannot fail

to be aware that a large district of country, which contains many villages, lies within the reach of the guns of our ships, and which remains unmolested. This ought to afford convincing proof that we have no disposition to make indiscriminate warfare upon your country or your people.

The minister and admiral, as was announced to your government in advance, desire peace. They are ready to treat all friendly overtures in a reciprocal spirit, and it is to be hoped that your government will adopt a wise and prudent course, so that in the future all trouble may be avoided.

It is desired that you will forward the inclosed dispatch to His Majesty, the King of Corea.

TUNG CHIH, 10th year, 4th moon, 2th day, (June 15, 1871.)

No. 15.

The undersigned, envoy extraordinary and minister plenipotentiary of the United States to China, charged with a special mission to Corea, had the honor to announce by letter, written and sent from Peking in March last, that the Government of the United States desired to come to some definite understanding with that of His Majesty with reference to the protection and rescue of seamen who might be wrecked upon the islands and coasts of Corea, and thus remove in advance all cause of a rupture of friendly relations between the two countries. To carry out this intention and allow an opportunity for all matters to be discussed and settled in a spirit of amity and good will, His Majesty was informed that the undersigned would leave his post in China temporarily and go to Corea; that he would go in ships of war, accompanied by an admiral, in order to add dignity to his mission, and not with any design of harming the people as long as the vessels and the men on board were treated with consideration and kindness. His Majesty was also informed that as we were animated by friendly motives we should expect to be received and treated in a friendly way, and the undersigned expressed the hope that a minister of suitable rank would be deputed to meet him, upon the arrival of the ships on the coast, to whom full particulars of the business could be made known, and with whom it could be discussed with a view to amicable settlement. Upon his arrival at this point no persons of suitable rank presented themselves, nor were those who came furnished with any evidence of their having been sent by the government. These men were received with politeness by the person next in rank to the envoy. They were informed that the undersigned would remain at this place some days, in order that His Majesty might send a suitable person to meet him; in the mean time some of the smaller vessels of the fleet would be engaged in exploring the channels and islands. They were requested to inform the local magistrates and the people of the admiral's intention, so that no cause of difficulty might arise between the surveying vessels and the people. The views and intentions of the undersigned were frankly explained to the persons who came, in the full expectation that as soon as His Majesty became aware of them no delay would occur in taking steps to comply with the reasonable requests made.

After a delay of one day to allow the admiral's intentions to be made known, the surveying vessels started on their errand of humanity, and after proceeding a few miles from the anchorage, they were, without notice, wantonly fired upon by forts and masked batteries, to which the vessels replied. No gun was fired from the vessels, or menace made, until after the batteries on shore commenced the attack. After silencing the batteries the vessels returned and reported the outrageous conduct of the military authorities. Even after all this had occurred, so great was the desire of the admiral and the undersigned for peace that it was concluded to allow ten days to elapse before taking any further action, in the hope that it would be found that the attack was unauthorized, and that His Majesty would cause a suitable apology to be sent, and also a minister, as had been suggested. The local magistrate here and the magistrate at Kang-Hoa were informed of our lenient disposition in order that future hostilities might be avoided. These peaceful overtures being declined, or neglected, left no other course open to the admiral than to seek redress by arms, as is usual among all civilized nations, for the wrongs and insults which our vessels had suffered. This has been fully done. The forts have been destroyed, and the armies defending them routed and scattered. Many hundreds of the soldiers were killed and wounded, and others are prisoners on board our ships.

The latter will be treated with humanity and kindness, and, upon a proper engagement being entered into that they shall not again take up arms against us, will be released and sent to their homes. It is the custom of my country to treat all prisoners that fall into our hands with humanity, and the undersigned begs to assure His Majesty that those now held captive on board our ships will suffer neither insult nor injury.

The events of the past few days afford convincing proofs of our power whenever we choose to exert it. In the present instance the admiral concluded to go no further than destroying the fortifications that had assaulted his vessels, although well-established precedent would sanction the moving of our forces against any and all places of the kingdom. Although possessed of the power, my Government does not seek war or conquest. It does not wish to acquire a single inch of your territory; nor does it seek control over your people. It has no desire to disturb the institutions of the country, or interfere in any matters of local concern. On the contrary, it desires to cultivate friendly relations with His Majesty as the sovereign of an independent nation. My Government wishes to be at peace with all countries, neither giving just grounds for offense, nor allowing unprovoked assaults or insults to its vessels or people to go unredressed. When its citizens offend against the laws and customs of other countries they are duly apprehended and punished. This cannot be done unless some arrangement is made by which they can be arrested and given up for trial and punishment. Arrangements now exist for doing this in China and Japan. Why should not Corea enter into similar engagements? Will not a definite understanding on this point prevent irritation and ill-feeling? To discuss and arrange this question, as well as to provide for the protection and rescue of those who may, by misfortune, be cast upon the shores of your kingdom, are the chief objects which the undersigned had in view in coming here.

These objects he is still anxious to accomplish, and is prepared to exercise patience and forbearance in order that further hostilities may be avoided. It remains for His Majesty to decide whether the ends aimed at shall be attained peaceably, in accordance with the earnest desire of the undersigned and his Government, or whether our peaceful overtures will be met in the future, as they have been in the past, by force of arms.

The undersigned trusts that His Majesty will, upon a careful review of the whole question, conclude to meet these advances in a just and friendly spirit, and that a person of suitable rank will soon be sent to consult, with a view of arranging the questions which are likely to disturb amicable relations. The undersigned hopes for a speedy and frank reply to this note.

The undersigned has the honor to wish His Majesty health and happiness.

TUNG-CHIH, 10th year, 4th moon, and 27th day, (June 14, 1871.)

FREDERICK F. LOW.

NOTE.—This dispatch was returned by the prefect with a note, saying that he dare not forward it.

No. 16.

Translation of dispatch from the magistrate of Foo-Ping-Foo, received from Guerrière Island at 10 a. m. on Saturday, June 17.

Li, guardian general of Foo-Ping Prefecture, Corea, makes the following communication in reply to Mr. Drew, acting secretary of legation:

Your dispatch has been attentively read. Its only purport is to place the blame upon the local, civil, and military authorities. It is now unnecessary to multiply elaborate discussions as to who has been in the right, and who the reverse, in what has taken place; the duty of us, the local authorities, is that we all (according to the commands of His Majesty) should confine ourselves to defending [the districts committed to our care] or to giving battle, and to these things alone.

I dare not send up to the court the dispatch now to hand from his excellency, and beg respectfully to return it herewith.

As you must have seen that we have not fired on the men of your honorable ships landing for water, but have let them come on shore, you must, I presume, be aware that we, too, do not pride ourselves on our power to kill and injure people.

A necessary communication in reply.

TUNG-CHIH, 10th year, 4th moon, 30th day, (June 17.)

No. 17.

Mr. Drew, acting secretary of legation, makes the following communication to Li, guardian general of Fu Ping prefecture.

I had the honor to receive, by the hand of a messenger yesterday morning, your note of that day, returning a dispatch from his excellency the minister to His Majesty the King. In your note you say that it is not within your province to forward the dis-

patch to its destination, and intimate that further correspondence will not be likely to serve any useful purpose.

I am instructed by his excellency to say, in reply, that your refusal to forward his dispatch to the government seems extraordinary, and that he is unwilling to believe your course would have the sanction of His Majesty were he aware of the real facts. It is hardly possible that His Majesty would so far disregard the established rules common among all nations as deliberately to obstruct all channels of communication between an ambassador of a friendly nation and the government of Corea; thus closing the door to all attempts at the settlement of differences that now exist, or that may hereafter arise, by amicable negotiation.

I am further instructed by his excellency to say that, as he contemplates a prolonged stay in the vicinity of the capital, he has concluded to retain the dispatch until means are found to forward it to its destination; and he indulges the hope that you will, upon reflection, conclude to transmit it, or make known to His Majesty that his excellency desires to send one. This is especially desirable; for if His Majesty frustrates all efforts to open negotiation the situation will be relieved of embarrassment in case the minister and admiral are compelled to seek other means to bring the business with which his excellency is intrusted to the notice of the court. A refusal by order of the government will also show to the nations of Europe, as well as to the United States, that Corea persistently declines to hold communication with an ambassador especially sent on an errand of peace and humanity.

If, however, you conclude to adhere to the determination indicated in your note, I deem it my duty distinctly to inform you that for your refusal to perform a service incumbent upon all officials of every nation, the same responsibility will attach to His Majesty as if the act was done by his express order.

TUNG CHIH, 10th year, 5th moon, 1st day, (June 18, 1871.)

No. 18.

Translation of a dispatch from the prefect of Foo Ping to Mr. Drew; received June 20, 1871.

Li, guardian general of Foo Ping prefecture, makes a communication in reply.

To the reply which I had the honor to send you the other day, I had not expected there would be a rejoinder. But I have now to acknowledge your answer, expressing surprise that I do not dare to forward his excellency's dispatch to the court, and inquiring into the matter. An explanation of my reasons is therefore indispensable.

Although the place where your honored ships came to anchor on their arrival here* was amply suitable for intercourse and correspondence, yet you, ascending the tide, entered the narrows, and thus caused those holding the place to open fire upon you. As we had written, expressing regret at the infelicity of that affair, you might have passed it over; but no!—on the contrary, you went up a second time and fought a battle, in which many of our people were killed or wounded. Our court is terribly incensed at this, and no longer believes in the [alleged] peaceful nature of your visit. Under these circumstances, although his excellency wishes a dispatch to be forwarded, yet, in view of the utter irreconcilability of a foreign minister's writing our sovereign direct on terms of equality with what is due to rank, dignity, and ceremonial propriety, how could I, an humble official, venture to transmit it? Our court would certainly severely censure and disgrace me for such an act; and how could I escape this punishment? And is this a matter of no concern to his excellency? It is, after repeatedly and unremittingly revolving the matter in my mind, that, dreading the law and holding to the canons of usage, I dare not recklessly forward the dispatch.

The business which his excellency has encountered the hardships of a long voyage to consult about and arrange can, in all probability, I presume, be nothing else than that he does not fully know why, of two vessels [which came to our shores] one was rescued and the other destroyed; and because he is solicitous for the future, lest in the course of their voyages vessels may perhaps again meet with unforeseen disasters, he therefore desires to make a compact of peace, [treaty,] forever preventing the infliction of injury; and this is the way matters stand.

But can this be pronounced other than a manifestation of extreme over-anxiety and the taking of unnecessary trouble? As to the case of the vessel which was involved in misfortune by those on board her, who brought the catastrophe upon themselves, this affair was verily of a kind totally unexpected to us. As to vessels losing their course in fogs at sea, or being driven in by stress of weather, these, and all similar dangers and disasters, concern human life; that this country will with fidelity rescue mariners and send them forward by land, as they desire, is recorded as our established law, enduring as the elements. In this we imitate Heaven's fostering care of mankind, and

* Either Isle Boisé or Rose's Roads.

make no discrimination between those nations which are remote and those which are near. Therefore it is that the local officials along the coast are, without exception, in a state of anxious concern day and night; and among these officials I am an unworthy one. With the spirits of heaven and earth watching above and about me, how dare I use empty or deceitful expressions? I only hope that his excellency will no longer be over-solicitous and needlessly trouble himself about these matters.

Although you have not consulted about and settled any business, yet granted that you had done so, the results would have been to the above effect and nothing more. There is no need for a compact of peace, and friendly feeling will be naturally found in what I have above stated.*

Of what the unworthy officer writing has heard of as the discussions of the crowded halls of our court he has now made frank disclosure; yet, his own proper duties are limited to holding his jurisdiction or doing battle, and to these things only.

A necessary reply. To the American Chief Secretary.

TUNG CHIH, 10th year, 5th moon, 2d day, (20th June, 1871.)

No. 36.

Mr. Low to Mr. Fish.

No. 75.] ON BOARD UNITED STATES FLAG-SHIP COLORADO,
Harbor of Chefoo, China, July 6, 1871. (Received August 21.)

SIR: I have the honor to report my arrival at this port on the 5th instant, having left the anchorage near Boisé Island on the 3d. In my former dispatches I endeavored to furnish you with a succinct narrative of events as they occurred after my arrival and during my stay on the coast of Corea; the efforts that were made to carry out your instructions and provide some adequate measures for the safety and rescue of shipwrecked mariners; the reasons for the hostile action of the fleet against the Corean government, and the considerations which induced the admiral and myself to confine the operations of the Navy within the narrowest limits compatible with the honor of the Government of the United States; the safety of our people navigating these seas, and those residing upon Chinese soil. I now have to inform you that all my efforts failed to induce the government of Corea to enter into negotiations with a view to concluding a treaty, such as my instructions contemplated, or to discuss with me that or any other question. In concluding the history of these proceedings, I deem it not inappropriate to review the whole question of intercourse with Corea, in which the safety, welfare, and interests of the citizens and subjects of civilized and Christian governments are so largely involved; the attitude of the Corean government in the past, and the small probability of any voluntary change in the future. I also deem it proper to offer some observations, which may be of service to the Government of the United States in determining the proper course to be pursued to prevent the lives and property of our citizens from being sacrificed. Corea is now the only nation on the earth claiming to be civilized; that absolutely refuses to hold intercourse of any sort with the Christian countries of Europe and America. Up to within a few years Corea has attracted little notice; and it may be presumed that her isolated position and the reputed poverty of her people would continue to afford immunity, notwithstanding her exceptional attitude toward foreign nations, did not considerations of humanity dictate a different course. The opening and rapid increase of trade with Japan, China, and Russian Manchuria, which required vessels to skirt the coasts of Corea in their voyages, brought prominently

* The promise to rescue distressed mariners.

into view the undesirability of allowing a country lying directly in the track of a great commerce, bounded on three sides by the sea, to remain with its coasts, outlying islands, and dangerous passages, totally unexplored. The Corean government would neither make these surveys itself, nor allow other nations to do it without incurring great risk. The history of all attempts to survey the coasts and islands goes to show that every obstacle was thrown in the way by the officials and the people—objection being made to the landing of surveying parties to make astronomical observations, while the lives of those engaged in such work were endangered when these warnings were disregarded. The wreck and total destruction of several foreign vessels and their cargoes, during the past ten years, and the massacre by the natives of the crew of one vessel certainly, and perhaps more, brought Corea into more general notice. The circumstances of the loss of the American schooner *General Sherman*, and the massacre of her crew, in 1866, are too well known to require mention of the details here.

The United States steamer *Wachusett* visited the coast in 1867 to inquire into the circumstances, without obtaining any information whatever, and the visit, by direction of the admiral in command of the fleet in these seas, of the United States steamer *Shenandoah*, in 1868, resulted in obtaining statements from the Corean local officials in regard to it, the truth of which is not supported by other and more reliable testimony, which I have been able to obtain. The commander of the *Shenandoah* was prohibited from going to the spot where the *Sherman* was wrecked to make inquiries and thus learn the real facts, and when her boats attempted to ascend the river they were fired upon from forts commanding its entrance, which compelled the vessel to return without obtaining further intelligence.

During his stay Captain Febiger desired to correspond with the government in order to obtain an official explanation, but was informed that, as he did not come in obedience to the direct orders of the President, correspondence between him and the court could not be permitted. During the same year another American schooner, the *Surprise*, had been wrecked and become a total loss, but the officers and crew were safely sent through to China by land. This circumstance led many to believe in the truth of the stories told by the Corean officials about the wanton acts of the persons on board the *Sherman*, which brought down the wrath of the people and caused the destruction of the vessel and those on board. This opinion was strengthened by a report which came to the consul-general at Shanghai concerning the anxiety of the Corean government in regard to the *Sherman* affair, and that it was proposed to send an embassy to the United States to explain the matter, a full account of which was embodied in his dispatches of 24th April, 1868, to the State Department. It is undoubtedly true that the recommendation of the consul-general, that an attempt be made to open negotiations with Corea, was based chiefly upon the information before referred to. It is also true, I suspect, that it was this intelligence more than anything else that led the Government to anticipate favorable results from the recent attempt at friendly negotiation. It is proper for me to say here that all my experience and information lead me to believe that the safety of the crew of the *Surprise* is due to the fact that the vessel was a total wreck, and therefore the crew could not, if spared, charge the government and people with robbery and plunder of their property, or cause their Government to make demands for redress and reparation, which would not have been the case with the other vessel. I also feel bound to say that the consul-general's informant fabricated, for ulterior

and base purposes, the information embodied in the dispatches before referred to. There is no reason to suppose that it contained the least shadow of truth; on the contrary, the evidence is most conclusive that there never was any intention on the part of the government of Corea to offer an apology or afford the least reparation for what I am now convinced was a great outrage upon the persons and property of citizens of the United States. All the evidence obtainable goes to prove that the government of Corea was and is determined to maintain its original status—non-intercourse with any Western nation, and hostile resistance to all attempts of foreign governments to establish relations for whatever purpose.

The considerations which induced the United States to send a special mission to Corea this year are of course more fully known to the Department than to me. It is sufficient for me to say that my instructions appeared to contemplate such action as would be likely to induce the government of Corea to agree to a treaty which would have for its chief if not only object the protection and rescue of the lives and property of mariners who might by misfortune be cast upon these shores. In accordance with the letter and spirit of these instructions I undertook to carry them out. No time was designated for carrying them out, this being left to the discretion of myself and the admiral of the fleet, who was directed to accompany me.

Considerations affecting American interests in China, too important to be overlooked or disregarded, prevented an early compliance with the instructions; besides, I deemed it better to delay the matter until the Korean embassy should have visited Peking, which would afford the Chinese government an opportunity to explain the peaceful and humane purposes of the mission. In addition to this, I wrote a dispatch to the King of Corea, frankly explaining the purposes which I desired to accomplish, and giving assurances of our friendly disposition. To forward this letter to its destination, and make sure that it would reach the King of Corea, I sought and obtained the good offices of the Chinese government. To further guard against any question being raised which might furnish a pretext for declining to treat with me as the accredited agent of my Government, I waited until I could receive a "full power" before starting on my mission. My previous dispatches will have made known to you the anxiety I felt in regard to the matter, and the scrupulous care taken to avoid, if possible, all chance of hostilities, unless forced upon us in a manner from which there would be no honorable escape. That hostilities did occur under circumstances exhibiting great treachery and wantonness you have been fully advised; and also of our failure to obtain any word of apology or regret, either from the government or the local officials. It is a noteworthy fact, which should be stated in this connection, that the copy of the letter from the court to the Peking government (see inclosure 5 in dispatch No. 74) was not sent to me until the 6th June, five days after the attack upon our vessels, although the fact of our presence on the coast was known at the capital several days prior to the arrival of the fleet at the anchorage near Boisé Island. From this circumstance it would appear that the government did not desire that any warning should be given of its hostile intentions; but as soon as defeat had, in their opinion, overtaken us, the copy of the letter was sent for my information. This view is supported by documents and official orders found in the captured forts on the 10th and 11th instants. Everything goes to prove that the government was anxious to entrap the vessels in a position where great damage could be inflicted without chance of escape. No intimation was given in advance of their hostile

intent, which would have put the vessels on their guard; on the contrary, the people who came to see us, upon being informed of the admiral's intention to send out the surveying vessels, expressed no dissent, but rather gave tacit assurances of friendly treatment. Of the first attack, the delay afterward allowed the Koreans to afford an opportunity for apology and reparation, the efforts of both the admiral and myself to avoid further hostilities, with the reasons therefor, the engagement of the 10th and 11th June and the results, the attempt to open negotiations afterward, and the repeated refusal of the local authorities to forward my dispatch to the court, you will have learned from previous dispatches.

In the opinion of the admiral his forces were insufficient to justify an attempt to reach the capital without great risk, and feeling confident that, unless this could be done, any advance would have no effect upon the government, further offensive movements seemed inexpedient. After waiting long enough to demonstrate the fact that there was no probability of the government responding to our overtures, I concluded to withdraw and submit the whole question to the President for his decision. Prior to leaving, I caused a dispatch to be sent to the prefect of Fu-Ping Fu, explaining the cause of my departure, copy of which you will find herewith. (Inclosure No. 1.)

The delicate situation of affairs in China rendered great caution necessary in our proceedings. The news of a defeat of our arms in Corea would be spread throughout China, enlarged and embellished as orientals only can do, and would seriously injure our prestige and endanger our people residing there. This consideration alone would have led me to point out to the admiral the absolute necessity for the second attack.

It appeared to me indispensable that the fleet should not leave Corea while there remained any reasonable grounds for the Government to believe that we had been defeated by force of arms. As I anticipated would be the case, the Koreans believed that we were defeated on the 1st of June, and so reported it to China. This news spread far and near, causing much excitement among the Chinese and great anxiety to foreigners.

The same report was very likely sent to Europe and America by telegraph. It remains to be seen what form the native report of the second engagement will take. For the same reason I deemed it wise to exercise great caution after the events of the 10th and 11th of June. It did not seem prudent to take the risk of defeat, when any success we might probably achieve would not be likely to accomplish the main object for which I went.

In view of these considerations, and the additional one that hostile operations against a foreign country should not, except under the most peculiar circumstances, admitting of no delay, be carried on without the express sanction of the Government, previously obtained, I concluded to pursue the course above indicated.

Having exhausted the power in me vested by the instructions of the Department, it now remains for the Government of the United States to decide upon the policy to be pursued in the future. Having had the benefit of some personal experience, and an opportunity to gain considerable information, I deem it not inappropriate to submit some observations upon affairs in Corea, coupled with those in China.

The two are so closely connected that in considering the one the other should not be lost sight of.

So far as the object sought to be attained through the recent expedition to Corea is concerned, no question can, I imagine, be raised as to

its importance, or the duty of the Government of the United States in connection therewith. The narrow limits within which I was instructed to confine negotiations clearly showed that it was not the intention of the United States to engage in any operations calculated to disturb the internal relations of Corea, or force upon her any agreement looking to trade. I indulged a hope that it would not be impossible to so impress upon that government the duty of all nations to protect and succor their citizens and subjects wherever they may go in the prosecution of legalized commerce, that it would recognize the propriety of this, and agree to some fixed rule by which it could be done in Corea. I trusted that the objects sought might be gained without the use or even the display of force on either side. These overtures having been rejected in a peremptory, insulting, and hostile manner, no hope remains of accomplishing the result by peaceful means. It now becomes the duty of all civilized and Christian governments to carefully consider what their rights are, and their duty to their citizens and subjects when these rights are trampled upon by countries which reject and set at defiance the law of nations as well as the laws of humanity.

It will hardly be contended, I imagine, that the natural law, or the right of self-preservation, will permit any nation occupying territory bordering upon the sea to so far exclude itself from all intercourse that it will neither adopt means to survey its coasts, islands, and channels, nor allow this to be done by others; nor is it consistent with the principles of humanity that an isolated nation shall be allowed to maltreat and massacre without question those whom the perils of the sea cast upon its shores.

On the contrary, the sea is the great highway of nations, which no country is at liberty to obstruct with impunity, and where natural obstacles and dangers exist, all governments have a right to demand that they shall be clearly defined and marked, so that they may be avoided. It is also a right of all countries, which should be jealously guarded, to provide adequate means for the safety and protection of its mariners and the recovery of their property. This no nation can properly deny.

That Corea will not voluntarily make any arrangements by which these rights can be secured is settled beyond a doubt. The question now is, whether western nations will permit this unhappy condition of things to continue, or whether active and efficient means will be adopted to correct existing evils. In determining a policy for the future, the influence which the attitude and action of Corea will exert upon China and Japan should not be lost sight of. This consideration engaged my serious attention from the moment your instructions reached me. The unhappy impression which the failure of the French expedition in 1866 created among the Chinese induced me to guard, as far as possible, against similar results in case we failed to accomplish the object sought. As an important step in this direction, I deemed it advisable to communicate to the Chinese government in substance what the mission was expected to accomplish, and also the spirit of amity and friendliness with which I was instructed to conduct all negotiations with Corea. It is not unlikely that my statement of the actual facts will be received and accepted as correct by the imperial government of China; that while we failed to accomplish what we had a right to hope for and expect in the matter of negotiations, we suffered no defeat at the hands of the Korean armies, but that, on the contrary, we inflicted great injury upon them for their unprovoked assault. But even if unsuccessful in this, it will exercise little influence upon the officials that are naturally inimical to foreigners, or the people.

The Korean government will exult over the fact that it is able to keep foreign nations from entering its territory, and prevent their ministers from communicating with its high officers.

This will react upon China, and prevent further concessions being made. It will also furnish additional arguments to the anti-foreign party, who insist upon the right and duty of China to expel all foreigners.

Notwithstanding our significant military success, it may be doubted whether even the King of Korea is aware of the real facts in regard to the disaster to his arms. It is so manifestly the disposition and policy of oriental officials to misrepresent misfortunes when their reputation is involved, that the central government is rarely advised of the real truth. If I am correct in this supposition, it is not unlikely that the events of the 10th and 11th June were reported in China as Korean victories, and possibly to the King of Korea also. Nor will the Korean government be made to feel the force of foreign arms until the seat of government is menaced or occupied by foreign troops.

As the case stands, foreign governments should decide either to let Korea alone, and allow her to burn, pillage, destroy, and massacre all that come within her reach without question or demand for redress, or organize and send such a force as will be able to insure success, without unnecessary risk, in breaking down the barriers that stand in the way of intercourse. No further efforts at conciliatory negotiation should be made, nor should mere demonstrations of force be attempted in the expectation that favorable results will follow.

They will serve no useful purpose, and be likely to end in harm. Every fresh attempt and failure to accomplish practical results in Korea only tend to render the situation in China more insecure.

With reference to the policy which western nations will sooner or later find it their duty to adopt toward Korea, I have decided opinions; and of the necessity for an early decision to prevent great disasters, I am profoundly impressed. Aside from the pressing necessity for immediate action to insure the rescue and protection of mariners, delay only renders the task more difficult of accomplishment. And every year that the Korean government is allowed to continue in its exclusiveness, increases the peril to the lives and property of foreign residents in China. If no adequate measures be taken to avert the impending storm in the East, the result will, I fear, be disastrous. I write this without haste or passion, guided solely by a sense of duty which cannot be overlooked or evaded. As is well known to the Department, I am opposed to making war upon Korea or any other country for the sole purpose of opening them to foreign trade, or extending it when once established. My opinions are based upon facts and considerations of greater importance than mere mercantile advantages, although these should not be overlooked by any government that desires to maintain an honorable and influential position among the nations of the earth. It may not be improper for me to remark in this connection that, in my opinion, the commercial advantages which Korea would offer, if opened to trade, have been greatly underestimated hitherto.

In regard to the means necessary to reasonably assure success, should the United States conclude to continue in its efforts to bring Korea to terms, the reports of Admiral Rodgers to the Navy Department will furnish accurate and trustworthy data. All commercial nations holding intercourse with China and Japan are equally concerned with the United States in the proper solution of this question, and as the interests of all are so inseparably linked together in these countries, perhaps the objections to departing from the traditional policy which governs the United

States respecting European affairs would not be found valid when applied to Corea.

In intrusting me with this mission to Corea, you said: "The Department relies upon you, in fulfilling these instructions, to exercise prudence and discretion, to maintain firmly the right of the United States to have their seamen protected, to avoid a conflict by force unless it cannot be avoided without dishonor, and to seek in all proper ways the harmonious and friendly assistance of the Chinese government."

These instructions I have, to the best of my ability, endeavored to carry out, and I trust that my action may receive the approval of the President.

I have, &c.,

FREDERICK F. LOW.

No. 1.

Edward B. Drew, acting secretary of legation, to Li, guardian general of Foo-Ping prefecture.

I had the honor to receive your note of 20th June, in which you reiterate your refusal to forward a dispatch from his excellency the minister to the court. You also decline to inform His Majesty that his excellency desires to communicate with the government. In reply, I would observe that it is quite beyond my province to enter into a discussion respecting the proprieties of diplomatic correspondence and intercourse; nor does our former correspondence justify the belief that such delicate and responsible powers are confided to you by your government.

With reference to the policy and practices of your government, about which you make positive statements and give voluntary assurances, I have to say that, until better satisfied of your authority, these statements and assurances cannot be accepted by his excellency as a reply to inquiries he might have made had an opportunity been afforded for him to explain the business in detail; and until this can be done in a convenient and proper manner it is quite unnecessary for officials, of whatever rank, to assume to know what his business is, or to gratuitously assign reasons for the action of His Majesty in declining to open communication with a foreign envoy, sent by his government to transact business of the highest importance. His excellency instructs me to say that coming, as he did, in obedience to the express orders of his Government, in the interest of humanity, without menace or hostile intent, all of which was announced to His Majesty in advance, he had a right to expect a courteous and civil reception, and that he would be allowed to explain in person, either to His Majesty or to a high minister designated for the purpose, the wishes of the Government of the United States preparatory to discussing, and agreeing, if possible, upon some definite mode of conducting affairs between the two countries in the future.

To remove, as far as practicable, the doubts of the local officials and the people, which the presence of the vessels might have raised, and to give assurances of our friendly disposition, you were, by permission of the minister, informed that we desired peace, and that there was no intention, either on the part of his excellency or the admiral, of interfering with the people, disturbing the government or the local institutions, or seeking control over a single foot of your territory. Instead of being received in a manner befitting the dignity of the Government he represents, and afforded an opportunity to make known the business which he was instructed to bring to the notice of your government, the civilities and courtesies due to a minister of his rank have been withheld, and all his efforts to open communication with the government have been frustrated. Your refusal to send the dispatches is quite in keeping with what had preceded, and your reasons for declining to perform the service are, I feel bound to say, frivolous and evasive. While waiting at this anchorage to receive such communication as His Majesty might choose to send, and consult with such persons, of suitable rank, as might be designated to meet him, the admiral concluded to render his smaller vessels useful to commerce and humanity by employing them in exploring the difficult and dangerous channels which are so numerous on the coasts of your country. Information was given in advance, of his intention, with the request that the surveying party should not be interfered with. Notwithstanding this timely caution and these assurances of good faith, the vessels were, without notice, wantonly and treacherously assaulted from your forts and masked batteries, and the utmost efforts of the military authorities were used to destroy the vessels and the people on board. Fortunately, the skill and power of the military were not equal to the base and treacherous design of the officers that

directed the attack. Instead of making an apology for this outrage, the government remained silent, and the local officials from whom we heard mildly deprecated the necessity but justified the act. After waiting a reasonable time for apology and reparation, the admiral proceeded to seek redress in the only manner possible, according to the rules and practices of civilized nations. That the punishment inflicted was severe you are well aware. At the same time the moderation of the admiral in confining his measures of redress to the forts and places from which the first attack upon his squadron came, must be as apparent to your government as it will be to the world when the circumstances are made known.

I am directed to say, in conclusion, that in the opinion of his excellency all reasonable efforts have been put forth to accomplish what his Government desired without the use of force, or even the display of it, further than it became necessary to redress unprovoked wrongs. These friendly overtures having failed to produce any favorable results, he feels that further correspondence or delay is alike unnecessary. From what he has seen, he is firmly convinced that the government of Corea has from the first determined to repel all advances toward friendly negotiation, and that the course of moderation and conciliation, which his excellency adopted and frankly made known, has had no other effect than to enlarge the pretensions and encourage the hostility of His Majesty and those acting under his authority. That the Government of the United States will be disappointed when it learns all the facts is quite clear. What course it will deem proper to pursue in view of all the circumstances it is not within my province to predict. It can scarcely be expected that the United States, or the governments of Europe, will continue to submit tamely to the haughty dictum of His Majesty, or rest content with his persistent refusal to hold direct communication with the ministers that may be sent on public business. Nor will it furnish just grounds for complaint on the part of His Majesty were foreign governments to use the power necessary to enforce compliance with their reasonable demands. In view of the gravity of the situation, his excellency deems it expedient to report fully the existing condition of affairs to his Government, and take its instructions before proceeding further. In the mean time he will feel at liberty to withdraw temporarily to some other point on the coast of Corea or China. Some of the vessels may be employed on the coast surveying during his absence, and it is to be hoped they will not be interfered with or molested.

I would further observe that if any of my countrymen should be, unfortunately, wrecked upon the coasts or islands, it is expected that the assurances of His Majesty to the board of rites will be made good, and the people be humanely treated and forwarded to their country. Any expenses incurred on this account will be readily paid by the Government of the United States.

July 2, 1871.

No. 2.

[Telegram.]

COREA, June 22.

SECRETARY OF STATE, Washington.

Recent demonstration produced no effect upon negotiations. Nothing can be effected short of the capital. Force insufficient to go there without great risk. If peaceful means fail, shall withdraw and wait instructions.

LOW.

True copy.

EDW'D B. DREW.

No. 37.

Mr. Williams to Mr. Fish.

LEGATION OF THE UNITED STATES,
Peking, July 26, 1871. (Received September 20.)

SIR: The translation of the petition from the Chinese laborers in Peru to the American minister in Lima, which gave occasion to the inclosed correspondence, was sent to the Department by Mr. Low, and need not, therefore, be duplicated. When I transmitted the original paper to Prince Kung, I endeavored to point out one mode open to him of at least doing something to relieve the wrongs complained of by his coun-

trymen in Peru, (inclosure A,) and in addition I personally urged it upon the members of the Foreign Office as a desirable step to show that the Emperor did not altogether ignore the complaints of his people in foreign lands.

These officials expressed their sympathy with their suffering countrymen, regretted that they should have been inveigled into such a miserable, cruel, servitude, and hoped that the evils would soon be mitigated, but they had no vivid sense of their own responsibilities in the matter, and made no inquiries as to the most desirable means of doing anything.

The answer of Prince Kung is much in this sense, and is a confession of entire inability to relieve the petitioners, (inclosure B.) though I think he is disposed to aid them, if he could see his way clear to the manner.

I have sent copies of the two dispatches to the United States legation at Lima, for the information of the Chinese there.

When all the circumstances are considered, I am not surprised at the prince's reply.

This government has now one representative abroad, and they are watching with great solicitude the reception Chung-how meets in Europe, as well as France in particular, and would not think of sending another envoy until his return. They have no treaty with Peru, and it has not yet entered into their international code to make the first proposals to negotiate with any nation. This seems to them, therefore, to close the way to make even a remonstrance to the Peruvian authorities, or to ask their good offices, on the ground of humanity and self-interest, to protect the defenseless and the ignorant, and uphold the rights of these unhappy and oppressed laborers who have been brought to their shores. In urging this government to make a direct application to our own in this behalf, I suggested a course which they could adopt without risk of any entanglements, and involved only the writing of a letter to another power to request it to help them to do what they acknowledged was a desirable thing, and which would show the world that they had heard these complaints.

But none of these arguments moved the Peking official, whose secluded position and prejudices of education and etiquette prevent from learning the true state of the world, and availing themselves of the opportunities offered them.

The approaching majority of their young sovereign, involving, as it must, a number of changes in the administration, may have had its influence in deterring them from entering upon a new path like this, until they were sure how it might be regarded.

At present they content themselves with crying *non possumus* to every new proposal, and standing on their reserved rights; though I do not regard this present effort as having been altogether in vain.

I have, &c.,

S. WELLS WILLIAMS.

A.

S. Wells Williams to Prince Kung.

LEGATION OF THE UNITED STATES,
Peking, June 8, 1871.

SIR: In the month of June, 1869, the United States minister, J. Ross Browne, sent to your imperial highness a complaint which the Chinese living in Peru had presented to the United States envoy residing at Lima, stating that they were very harshly treated by their masters; to which your highness's reply was received. Mr. Henry M. Brent,

the United States chargé d'affaires at Lima, has now forwarded another complaint presented to him by the Chinese laborers in Peru, setting forth their grievances and harsh treatment, worse than before, and asking that he would make their condition known to the Emperor, and see if an envoy could be sent to live in Peru, or whether the American minister could act as such and help them. It seems from the perusal of this petition, as well as the last, that the condition of these laborers is very lamentable. Far off in a distant land, they have met this suffering and misery; they are like a bird in a cage, out of which there is no escape.

The petition which they have sent I now submit for your highness's perusal, that you may devise measures for their deliverance and succor. If you decide to agree to their request, and make the United States minister at Lima the protector of the Chinese living in that land, it will be necessary to make the proposal direct to the President; and if he is willing to allow and instruct the American minister there to act in this capacity for awhile, (if the Peruvian government is also willing to have him do so,) then the arrangement can be effected. Hereafter, if China and Peru should enter into negotiations, the stipulations of the treaty could secure the welfare of the Chinese in that country. Just now it would be advisable to instruct the high officers at Canton to proclaim through all the districts and towns in Kwang-Chan prefecture, warning the people not to engage themselves to go to Peru as laborers, so that they may not fall into similar distress. I now inclose the original copy of the complaint made by the Chinese laborers of their distressed condition for your highness's perusal.

I have the honor to be, sir, your highness's obedient servant,

S. WELLS WILLIAMS.

His Imperial Highness PRINCE KUNG, &c., &c.

B.

Prince Kung to S. Wells Williams.

TING-CHI, 10th year, 5th moon, 30th day, (July 17, 1871.)

Prince Kung, chief secretary of state for foreign affairs, herewith sends a reply.

I have the honor to acknowledge the receipt of your excellency's dispatch of the 8th ultimo, in which you inform me that Mr. Brent, the United States chargé d'affaires at Lima, had sent a second complaint, made to him by the Chinese laborers in Peru, of the harsh treatment they received there, and that you accordingly inclosed the original copy of this paper for my examination, and to devise such measures for their relief as might be possible, &c., &c.

In relation to this matter I may here refer to the former memorial from the Chinese laborers in Peru, setting forth the cruel treatment of their masters, which was made known to me by Mr. Ross Browne. I replied to him at the time, requesting that he would write to the American minister in Peru, asking him to kindly examine into the truth of these complaints, and to devise some way of lending the sufferers a helping hand. It was also ordered at the same time that no merchants of a non-treaty power should be allowed to open an office for hiring laborers, and all natives were prohibited from engaging themselves to such, or going to Macao for that purpose. These regulations were communicated to all the foreign ministers to transmit to their countrymen, so that all might know that no laborers could be engaged or sent off from Macao. In May of last year Mr. Low informed me that the American minister in Peru had represented the hardships experienced by the Chinese laborers to the government at Lima.

From these, as well as the dispatch from your excellency now before me, it is manifest how much the miserable condition of the Chinese laborers in Peru has moved the sympathies of the American officials there and here. Judging from these documents, and the reports given in the newspapers, it appears that in no country are these laborers treated with so much cruelty as in Peru, and they are secretly and illegally hired as coolies only in Macao. It was plainly stated in the dispatch sent to the foreign ministers in June, 1869, which they were requested to make known to their countrymen that it was henceforth illegal to open emigration offices in Macao, and no coolies could be shipped from there. This was done in order to prevent Chinese subjects from being inveigled into such evils in future. Though there is every probability that those prohibitions were made known by the resident ministers to their consuls, yet the Foreign Office has deemed it advisable to send a copy of the dispatch now under reply to the governor general at Canton, that he may make known to the people at large that they are not to go to Macao to engage themselves as laborers; and if necessary, to reissue the rules forbidding foreign merchants to open emigration offices there. He has also been directed to confer with the consuls at Canton how to carry these things into effect.

In regard to the best method to alleviate the sufferings of these Chinese laborers, so that they may no longer be subjected to these troubles, I am at present deliberating, and shall expect to avail myself of your admirable suggestions in the matter.

No. 38.

Mr. Low to Mr. Fish.

[Extract.]

No. 80.]

LEGATION OF THE UNITED STATES,
Chefoo, August 5, 1871. (Received October 23.)

SIR: The result of the trials of those charged with participation in the Tien-tsin massacre last year was that twenty were convicted and sentenced to death, and twenty-five others, besides the two local officials, were ordered to be banished. Sixteen of the twenty first mentioned were convicted of the murder of the French, and the remainder, of killing the three Russians. The sixteen were executed, but the sentence of the other four was temporarily suspended at the suggestion of the Russian minister, as I was then informed. Subsequently I learned that this action was taken because the Russian minister declined to accept the punishment decreed to the four culprits in full satisfaction for the crime, nor would that, or any other number of executions, be considered as ample, unless the guilt of those accused be established by a joint examination in which the Russian consul should take part. It was finally agreed that the four men in question should be re-examined in the manner proposed. After a searching investigation the Russian consul general became satisfied that two of the accused were guilty of the murder of his nationals, and that the other two, while aiding and abetting, did not actually commit any overt act.

When the result of the re-examination became known, the friends of the least guilty parties petitioned the consul general to get his consent to the commutation of their punishment, to which reply was returned that any such action would be transcending the powers of the consul general. The matter was then referred to Peking, and finally to St. Petersburg; the Russian minister consenting that the execution of the sentence upon all might be suspended until instructions from his government could be received. Thus matters stood at the beginning of April, when I left Peking.

I am now informed by the Russian minister, who is temporarily residing here for the summer, that agreeably to instructions received, investing him with authority to consent to such an arrangement as he deemed proper, by which substantial justice should be done, he had consented that the sentences of the two least guilty might be commuted to banishment for life. The action of the Russian minister in the re-examination of the case was, I think, wise. It will serve as a precedent in the future, should similar cases unfortunately occur, and will impress the Chinese with this truth: that a given number of executions will not meet the demands of justice unless the guilt of those accused be proven. The leniency shown by the Russian government ought to teach both officials and people that foreign nations desire the punishment of the guilty only, which should be meted out according to the measure of their guilt.

It is proper to add that the result of this examination goes far to disprove the assertion which has obtained general credence, that the men executed at Tien-tsin last autumn were purchased victims, the greater portion if not all of whom were innocent, and that the really guilty ones escaped punishment altogether. That many of those deserving punishment escaped is quite probable, but no evidence worthy

of credence was ever brought to my notice which tended to show that those who did suffer were innocent.

I have, &c.,

FREDERICK F. LOW.

No. 39.

Mr. Fish to Mr. Low.

No. 54.]

DEPARTMENT OF STATE,

Washington, September 20, 1871.

SIR: With reference to your dispatch of the 20th of June last, (No. 74,) detailing the events connected with the expedition to Corea, I have to inform you that the Department approves your general course of proceeding on the occasion referred to, but thinks that your communications should have been addressed to the principal minister of foreign affairs instead of the King. Their being thus addressed may be appealed to as justification for their not being received.

It is to be regretted that in the communication of June 18 (inclosure No. 17) by Mr. Drew, acting secretary of legation, addressed to Li, guardian general of Fu-Ping prefecture, the declaration of intention to make "a prolonged stay in the vicinity of the capital" was made, and was accompanied by the expression of a determination "to retain the dispatch until means are found to forward it to its destination." This refers to a dispatch which the Coreans had declined to receive. This declaration was not carried out. The minister left Corea about sixteen days after its date without having found means to forward the dispatch to its destination. But for this unfulfilled promise or threat the Coreans would be without justification in alleging that all that had been contemplated or intended had been accomplished.

I am, &c.,

HAMILTON FISH.

No. 40.

*Mr. Davis to Mr. Low.**

No. 57.]

DEPARTMENT OF STATE,

Washington, October 19, 1871.

SIR: The delay in answering your No. 56 has not been caused by a disposition to disapprove of your reply to the Foreign Office note on the subject of missions. On the contrary, the President regards it as wise and judicious.

Two versions of these regulations have found their way to the Department—the translation inclosed in your No. 56, and a translation apparently made from a French version, presented to the houses of Parliament in Great Britain, in June or July last, and printed in British Blue Book, entitled "China, No. 3, 1871." These versions differ widely in form and expression, and, to some extent, in sense.

* This correspondence has been transmitted to the ministers of the United States in London, Paris, Berlin, St. Petersburg, Vienna, and Florence, with instructions to transmit a copy in each case to the foreign minister. (See *ante*, note to Mr. Low's dispatch to Mr. Fish, of March 30, 1871.)

The version presented to Parliament has been or will be made the subject of instructions by Her Majesty's government to Mr. Wade. A copy of these proposed instructions was communicated to this Department by Her Majesty's chargé at Washington in August last. A copy is herewith inclosed, and also a copy of the version to which they relate.

The most material variance between the two versions is in the designation of the missionaries against whom the Chinese Foreign Office complain. Your version limits the complaints to missionaries of the Roman Church. The British translation, following the French version, represents the complaints against "Christians." For instance, the British version renders the beginning of the first article or rule as follows: "The Christians, when they found an orphanage, give no notice to the authorities and appear to act with mystery." Your translation of the same sentence reads, "The establishment of asylums for training up children by the Romanists has hitherto not been reported to the authorities, and, as these institutions are carefully kept private." &c., &c.. From the English version of the accompanying note from the Yamen, it is evident that the Chinese Foreign Office recognizes that there are in China Christian missionaries of different faiths; for they say that "the people in general, unaware of the difference which exists between Protestantism and Catholicism, confound these two religions under this latter denomination." Your version is to the same effect.

Under these circumstances it may be well to re-examine the original, and ascertain which version is correct. Both, however, agree in the statement that the government of China is apprehensive of a popular outbreak which may endanger the peace of the country and its relations with the United States and the European powers, and that, therefore, it has determined to submit to the representatives of the foreign powers a plan for regulating the condition of Christians in China. Your prompt and able answer to these propositions leaves little to be said by the Department.

The rights of citizens of the United States in China are well defined by treaty. So long as they attend peaceably to their affairs they are to be placed on a common footing of amity and good-will with subjects of China, and are to receive and enjoy for themselves, and everything appertaining to them, protection and defense from all insults and injuries. They have the right to reside at any of the ports open to foreign commerce, to rent houses and places of business, or to build such upon sites which they have the right to hire. They have secured to them the right to build churches and cemeteries, and they may teach or worship in those churches without being harassed, persecuted, interfered with or molested. These are some of the rights which are expressly and in terms granted to the United States, for their citizens, by the treaty of 1858. If I rightly apprehend the spirit of the note of the Foreign Office, and of the regulations which accompany it, there is, to state it in the least objectionable form, an apprehension in the Yamen that it may become necessary to curtail some of these rights, in consequence of the alleged conduct of French missionaries. This idea cannot be entertained for one moment by the United States.

The President will see with deep regret any attempt to place a foreign ecclesiastic, as such, on a different footing from other foreigners residing in China. It is a fundamental principle in the United States that all persons, of every sect, faith, or race, are equal before the law. They make no distinction in favor of any ecclesiastical organization. Prelates, priests, and ministers can claim equal protection here, and enjoy equal rank in the eye of the civil law. The United States ask no more in China

than they confer at home. Should the peace of the empire be disturbed by efforts from any quarter to induce or compel the government to confer unusual civil rights on foreign ecclesiastics, you will make it plain that the United States have no sympathy with such a movement, and regard it as outside of the treaty rights which have been conferred upon the western nations. Should these demands, however, be complied with, this Government will then consider whether, under the thirtieth article of the treaty of 1858, a similar right will not at once inure to the benefit of all the public officers, merchants, and citizens of the United States.

The President would look with equal regret upon any attempt to withdraw the native Christians from the jurisdiction of the Emperor without his free consent, or to convert the churches founded by the missionaries into asylums. He can well conceive that the enjoyment of such a right might, as intimated by the Yamen, operate for the nominal and apparent conversion of desperadoes and criminals, who need a place of refuge to escape from punishment. On the other hand, he is mindful that the faith of the empire is pledged to the United States that not only citizens of the United States, but Chinese converts, who peaceably teach and practice the principles of Christianity, shall in no case be interfered with or molested. He feels confident, therefore, and expects that whatever may be the disposition of the turbulent and evil-disposed among the subjects of the Emperor, the native converts to Christianity will enjoy the full measure of protection guaranteed to them by the treaty of 1858. Except so far as the guarantee of that treaty extends, the President cannot permit the officials of the United States to participate in any attempt to disturb the natural relations between the Emperor and his Christian subjects. He particularly desires it to be understood that the profession of the Christian faith is not regarded by the officers of the United States as a protection against punishment for crime. Ecclesiastical asylums for criminals have never existed in this country, nor will they be planted elsewhere through its agency.

This Government has studiously and steadfastly observed its treaty engagements with China. The policy of the President and of his administration was elaborately set forth in the dispatch of August 31, 1869, to Mr. Bancroft, a copy of which was inclosed in Mr. Fish's No. 2 to you. The President has seen no reason to change that policy. On the contrary, the events which have occurred since that dispatch was written have the more convinced him of its justice. We stand upon our treaty rights; we ask no more, we expect no less. If other nations demand more, if they advance pretensions inconsistent with the dignity of China as an independent power, we are no parties to such acts. Our influence, so far as it may be legitimately and peacefully exerted, will be used to prevent such demands or pretensions, should there be serious reason to apprehend that they will be put forth. We feel that the government of the Emperor is actuated by friendly feelings towards the United States. We recognize the existence, to a limited extent, of the popular feeling and danger of outbreak which are set forth in the note of the Foreign Office. As far as we can, consistently with the duty which the government owes to those who have the right to claim its protection, we desire to aid the government of the Emperor in calming that feeling and in preventing such outbreak.

Should other nations seek our advice, or counsel with us on this subject, we shall not fail to urge these views. But in order to urge them with success, we must be in a position to say that the Chinese government is able and anxious to perform all its international duties, whether

founded upon treaty or on well-settled principles of public law. We could speak with still greater force if we could give an assurance that it is disposed to enlarge its intercourse with the West, and to revise its treaties in that spirit. The guarantees for peace lie in this direction rather than in the revival of a restrictive policy.

With these general principles stated, it is not necessary to refer in detail to the note of the Foreign Office, or to the rules. Your reply to them has anticipated much that I should have otherwise said. I content myself with saying that as no complaint is made against the American missionaries, so there is no necessity to make such rules for their observance.

A copy of these instructions will be sent to the various treaty powers. You will communicate the substance of them to Prince Kung.

I am, sir, your obedient servant,

J. C. B. DAVIS,
Acting Secretary.

FREDERICK F. LOW, Esq.

Inclosures.

1. Mr. Pakenham to Mr. Fish, August 24, 1871, in which was inclosed a draught of a note from the British Foreign Office to Mr. Wade.
2. Extracts from British Blue Book, "China, No. 3, 1871."

Mr. Pakenham to Mr. Fish.

WASHINGTON, August 24, 1871. (Received August 25.)

SIR: In compliance with instructions which I have received from Earl Granville, I have the honor to transmit a copy of a draught of a dispatch which Her Majesty's government propose to address to Mr. Wade, Her Majesty's minister in China, respecting the circular of the Chinese government on the subject of religious missions in that empire.

I have, &c.,

F. J. PAKENHAM.

FOREIGN OFFICE, August, 1871.

SIR: Her Majesty's government have hitherto abstained from offering any observations upon the circular of the Chinese government on the subject of religious missions, of which a translation has been communicated to them by the French chargé d'affaires, in the expectation that they might have received some reports from you regarding it. As, however, they learn from your telegraphic dispatches that it will be some time before they are in possession of your views, they consider that they cannot allow this important paper to remain longer unnoticed, and I have accordingly now to state to you the impression which has been made by it upon Her Majesty's government.

Her Majesty's government must, in the first place, protest against the general assertions contained in the circular and accompanying regulations with regard to missionary enterprise in China, no distinction being made between the proceedings of missionaries over whom Her Majesty's government have no control, and of the British missionaries for whose actions alone Great Britain be held responsible. They must moreover remark that of the instances of alleged abuses cited, there is not one which [is] in any way connected with any British missionary establishment.

Her Majesty's government might accordingly have contented themselves with replying to the Chinese government that the circular did not allege any complaint against British subjects, and that they could not enter a discussion of matters not directly affecting the relations between Great Britain and China.

Her Majesty's government do not, however, desire to lay too much stress upon the point. They believe it to be the common interest and desire of all the governments having treaties with China, to co-operate with the government of the empire in maintaining the relations between China and their respective countries on the most friendly

footing, and Her Majesty's government will always be ready to consider any representations which the government of China may have to offer with that object.

On the particular question to which the circular relates, the policy and practice of the government of Great Britain have been unmistakable. They have uniformly declared, and now repeat, that they do not claim to afford any species of protection to Chinese Christians which may be construed as withdrawing them from their native allegiance, nor do they desire to secure to British missionaries any privileges or immunities beyond those granted by treaty to other British subjects. The bishop of Victoria was requested to intimate this to the Protestant missionary societies, in the letter addressed to him by Mr. Hammond, by the Earl of Clarendon's direction, on November 13, 1869, and to point out that they would "do well to warn converts that, although the Chinese government may be bound by treaty not to persecute, on account of their conversion, Chinese subjects who may embrace Christianity, there is no provision in the treaty by which a claim can be made, on behalf of converts, for exemption from the obligations of their natural allegiance, and from the jurisdiction of the local authorities. Under the creed of their adoption, as under that of their birth, Chinese converts to Christianity still owe obedience to the law of China, and if they assume to set themselves above those laws in reliance upon foreign protection, they must take the consequences of their own indiscretion, for no British authority, at all events, can interfere to save them."

On the other hand, Her Majesty's government cannot forget that the free exercise of the Christian religion in China is stipulated for by the eighth article of the treaty of June 26, 1858, which states that "the Christian religion, as professed by Protestants or Roman Catholics, inculcates the practice of virtue, and teaches man to do as he would be done by. Persons teaching or professing it, therefore, alike shall be entitled to the protection of the Chinese authorities; nor shall any such, peaceably pursuing their calling and not offending the laws, be persecuted or interfered with."

Her Majesty's government, therefore, although they have given it to be most distinctly understood that conversion to Christianity gives no title to British protection against the operations of the laws of the land, could not be indifferent to the persecution of Christians for professing the Christian faith.

The impracticable nature of the regulations proposed by the Chinese government has been so convincingly shown in the note from Mr. Low, the representative of the United States to the Yamen, on the 20th of March last, that it is unnecessary for Her Majesty's government to do more than refer to some of the principal objections to their acceptance.

The first regulation does not apply to the British missionary societies, as they do not support any orphanages in China. Her Majesty's government could not obviously accede to regulations which they had no power to enforce. If the missionaries of other countries have conducted such institutions in a manner to give just cause of suspicion to the people of China, Her Majesty's government feel no doubt that, on a proper representation being made of the facts, the cause of complaint will be removed, but they cannot admit that such an atrocious crime as the massacre at Tien-tsin can be excused by ascribing it to the prejudices of the ignorant.

The second regulation requires that woman ought no longer to enter churches, nor should Sisters of Charity live in China to teach religion. The objection to woman frequenting the Christian churches has, Her Majesty's government understand, been met at Fatschau and elsewhere by a screen having been erected to divide the sexes. To prevent woman altogether from attending divine worship would be in violation of the freedom of religion provided in the treaty, and would be contrary to the fundamental principles of Christianity. As the Chinese government are most probably aware, there are no Sisters of Charity attached to the British missionary societies; but Her Majesty's government could not countenance any regulation which would cast a slur upon a sisterhood whose blameless lives and noble acts of devotion in the cause of humanity are known throughout the world.

The third and fourth articles, as respects Chinese Christians, have already been dealt with in the preceding part of this dispatch, but Her Majesty's government cannot allow the claim that the missionaries residing in China must conform to the laws and customs of China to pass unchallenged. It is the duty of a missionary, as of every other British subject, to avoid giving offense, as far as possible, to the Chinese authorities and people, but he does not forfeit the rights to which he is entitled under the treaty as a British subject because of his missionary character.

The fifth article seems to be directed against French missionaries.

The ninth article of the British treaty contains provisions to prevent any abuses of passports borne by British subjects, and no passports are granted by British diplomatic or consular authorities to persons not of British nationality.

In this regulation, as in the third, fourth, and fifth, mention is made of occurrences in Sze-chuen. Her Majesty's government have urged upon the Chinese government the expediency of their opening this province to foreign trade, and establishing a port there at which foreign consuls should reside. If the statements which have been made to

the government of Peking with regard to the irregular proceedings of foreign missionaries and their converts are well founded, the Chinese Government would do well to consider whether the presence of foreign consular authorities is not required to control the improper or ill-directed exercise of the treaty privileges conferred on their countrymen.

Her Majesty's government believe that there are no British Protestant missionary establishments in Sze-chuen, but it is impossible to prevent enterprising persons penetrating through a country. Sooner or later they will find their way, and the true interest of China is to facilitate rather than to restrict the flow of foreign enterprise, and to direct it in the manner most advantageous to that mutually beneficial commercial intercourse on which the prosperity and happiness of nations so largely depend.

Besides showing, as Mr. Low has pointed out, a complete misconception of the nature of the Christian religion, the sixth regulation is open to the objection that by constituting the Christians in China a class separated from the rest of the population, it would lead to the very evil of which it is the desire of the Chinese government to get rid, as the Christians would inevitably regard that separation as conferring on them privileges for the maintenance of which they must trust to the protection of the powers in whose treaties with China the freedom of the Christian religion is provided for.

The seventh regulation calls for no special observation.

The eighth regulation does not apply to British missionaries who have no ecclesiastical property in China to reclaim, and seems to refer to misunderstandings with regard to the operation of the sixth article of the treaty with France of October 25, 1860.

Her Majesty's government trust that the Chinese government will not suppose that in withholding their assent to these regulations they are actuated by any other motive than the wish to avoid embarrassing a question, already of sufficient difficulty, by cumbersome and impracticable regulations.

The remedy for the alleged assumption of missionaries of a protective jurisdiction over native Christians, which constitute the gist of the accusations brought forward in the circular and regulations, appears to Her Majesty's government to be sufficiently afforded by the treaties.

If British missionaries behave improperly they should "be handed over to the nearest consul for punishment," like other British subjects, as provided in the ninth article of the treaty of Tien-tsin. If the local authorities consider that Her Majesty's consuls do not in any instance afford redress for their complaints they can appeal through the government at Peking to Her Majesty's minister in the ordinary course of international usage. Both Her Majesty's minister and consuls have extensive powers for maintaining the peace, order, and good government of Her Majesty's subjects in China, and if those powers should be proved to be inadequate, Her Majesty's government would readily increase them, but until it can be proved that Her Majesty's minister and consuls are unable to control Her Majesty's subjects in China by the exercise of the powers confided to them, Her Majesty's government must decline to supplement the existing treaties by regulations which, although only intended to deal with a particular class of British subjects, would undoubtedly subject the whole British community in China to a constant interference in their intercourse with the native population of a most vexatious description.

CIRCULAR OF THE CHINESE GOVERNMENT, ON THE SUBJECT OF MISSIONARIES; COMMUNICATED BY THE FRENCH CHARGÉ D'AFFAIRES.

Note from the Yamén on the subject of Missions.

[Extracted from British Blue Book, "China, No. 3, 1871," as translated into French and from French into English.]

[Translation.]

The object which the powers and China had before them originally in signing treaties was to establish a permanent situation which would insure them reciprocal advantages and remove abuses. However, the experience of the last few years has demonstrated that not only do these treaties not attain this desired end of permanency, but also that, up to the present time, they are difficult to carry into execution. Trade has in no degree occasioned differences between China and the powers. The same cannot be said of the missions, which engender ever-increasing abuses. Although in the first instance it may have been declared that the primary object of the missions was to exhort men to virtue, Catholicism, in causing vexation to the people, has produced a contrary effect in China. [This regrettable result] is solely attributable to the inefficacy of the plan of action [followed in this matter.] It is, therefore, urgent that steps should be taken to remedy this evil and to search for a satisfactory solution of the difficulty. In fact,

this question is one bearing upon those which influence the leading interests of the peace of nations, as well as those of their trade, which are equally considerable. Wherever the Catholic missionaries have appeared they have drawn upon themselves the animadversion of the people, and your excellency is not ignorant that cases which have arisen during the course of several years embraced points of disagreement of every kind.

The first Catholic missionaries who established themselves in China were called "litterates (lettrés) of the West." The greater part of the conversions took place at that time among respectable people. On the other hand, since the conclusion of the treaties took place, (1860,) the majority of the converts are persons without virtue; so that that religion, whose object is to exhort men to virtue, no longer enjoys any consideration. From that moment consciences have become a prey to uneasiness. The Christians have none the less continued, under the shadow of missionary influence, to mislead and oppress the people; thence arose renewed uneasiness, then quarrels between Christians and non-Christians, and, at last, disturbances. The authorities proceed to investigate the affair; the missionaries make common cause with the Christians, and support them in their insubordination against the same authorities. Thereupon the feeling of disquiet which pervades the people assumes greater proportions. Yet more; veteran rebels, beyond the pale of the law, amateurs in intrigue, seek a refuge in the church, and lean upon her influence in order to commit disorders. At this moment the animosity of the people, already deep, degenerates gradually into a hate which, at length, reaches its paroxysm. The people in general, unaware of the difference which exists between Protestantism and Catholicism, confound these two religions under this latter denomination. They do not grasp the distinction which should be made between the different nations of which Europe is composed, and give to Europeans the generic name of "men from without;" so that, when troubles break out, foreigners residing in China are all exposed to the same dangers. Even in the provinces where conflicts have not yet taken place, uneasiness and suspicion will certainly appear among the people. Is not such a state of things of a nature to occasion a lively feeling of irritation, and, as a result, grave disorders? The differences which exist between the religious and the nationalities are truths which still are beyond the comprehension of the masses, in spite of the constant efforts which have been exerted in order to make them appreciate their nature. The prince and the members of the Yamén, during the ten years in which they have been at the head of affairs, have been a prey to incessant anxiety. These precautions have been justified by the events at Tien-tsin, the suddenness of which was overwhelming. The proceedings against the functionaries [compromised] have been begun, the murderers have suffered capital punishment, an indemnity has been paid, and relief given; but, although the affair may to-day be almost settled, the prince and the members of the Yamén cannot throw off the uneasiness which they feel. In fact, if this policy is the only one on which one can rely [to settle] the differences between Christians and non-Christians, it will become more precarious in proportion to the necessity there will be to recur to it oftener, and the disorders like those of Tien-tsin will be repeated more terribly each time. If the question is looked at under its present aspect, the question is, how is it possible to be on good terms and to live on either side in peace? It is not only to the hatred engendered by the suppressed animosities of the people, but decidedly also to the provocations of the Christians, that the conflicts on the missionary question which arise in these provinces must be attributed. If, on one side, these conflicts may have been brought about by the relative incapacity of the local administration, they can certainly also be attributed to the conduct of the high Chinese and European functionaries charged with the direction of affairs, [affecting the two countries,] who, knowing the want of conciliation in the attitude of the missionaries and Christians, show no good will in seeking for the means of remedying the evil.

With regard to the Europeans, they only aim at getting rid of the difficulties of the moment, without troubling themselves whether by so doing consciences are disturbed; to employ coercion is all that is thought of. On the other hand, the local authorities have only one object, that of bringing the matter to a close. Care for the future goes for nothing in this short-sighted policy. But if we seek, in concert with the Europeans, to secure by efficacious means a really lasting understanding, we do not find among these latter the desire to found the discussion on equitable bases. When this discussion arises, they place before us unacceptable means which they wish to impose on us by force, in order to be able to put a stop to the matter. That is, in truth, not the good and true way to take care of the interests of the two countries. Anxious about the whole matter, and sincerely desirous that concord and peace should reign forever between China and Europe, the prince and the members of the Yamén are bound to seek the best means to secure this result. Their belief is, that there are ecclesiastics everywhere in Europe, and that their presence abroad is there without danger to good harmony. The maintenance of this happy state of things is, doubtless, due to the employment of certain means, and to this fact, that ecclesiastics and Christians abstain from provoking conflicts. The prince and the members of the Yamén have

heard that these same ecclesiastics, to whatever nationality they might belong, respected the law and customs of the country where they dwelt; that they were not allowed to constitute in them a kind of exceptional independence for themselves: and that the faults of every kind, such as contraventions of the law, insubordination towards the authority of functionaries, abuses and usurpations of powers, acts prejudicial to the reputation of people, and oppressive towards the people which provoke its suspicions and its resentment, are there severely repressed. If the missionaries, before constructing the religious establishments in China, and preaching their doctrine there, avoided making themselves odious to the principal men and people, the suspicions would disappear to give place to a mutual confidence, concord would be permanent; one would not see churches destroyed and religion attacked. If these same missionaries, in pursuit of their work, could inspire in the masses the conviction that their acts are not opposed to their teaching; if, remaining deaf to the instigations of the Christians, they avoided, by denying themselves, all interference in the local administration, giving the support of their influence to arbitrary and oppressive acts which engender hatred among the notables and the people, they might live in perfect harmony with the people, and the functionaries would be in a position to protect them. Far different is the conduct of the persons who now come to China to propagate therein the Christian religion. From the information which the prince and the Yamén have gathered, (respecting the duties imposed upon them by their priesthood,) these persons found as it were among us an undetermined number of states within the state. How, under these conditions, can we hope that a durable understanding should be established, and to prevent the governors and the governed uniting against them in common hostility?

The prince and the members of the Yamén are impressed with the desire to ward off from henceforth eventualities so menacing. In fact, they fear in all sincerity lest, after the arrangement of the Tien-tsin affair, the animosity of the ignorant Christians of the empire should take a more decided tone of insolent bluster, that the bitterness of the popular resentment should increase, and that so much accumulated bad feeling, causing a sudden explosion, should bring about a catastrophe. It would then be no longer possible for the local authorities, nor for the high provincial functionaries, nor even for the Tsung-li Yamén, to assert their authority. In the event of a general rising in China, the Emperor will be able to appoint high dignitaries to order them to assemble everywhere imposing forces; but the greatest rigor does not reach the masses, and when their anger manifests itself, there are persons who refuse to yield their heads to the executioner. Then, when the evil becomes irremediable, and when the wish we all have to preserve so great interests will no longer be effectual, the men who direct the international affairs of China and of Europe will not be suffered to decline the responsibility which falls on them. In short, in the direction of affairs, the important point in China as in Europe is to satisfy opinion. If, failing in this duty, oppression and violence are employed, a general rising will at last take place. There are moments when the supreme authority is disregarded. If the high functionaries of China and the Europeans, on whom rests the responsibility of the affairs which now form the object of our anxiety, remaining unmoved spectators of a situation which threatens the greatest danger to the Chinese people, as well as to strangers, traders, and individuals, make no effort to find a solution which may effectually remedy the evil, it will follow that it will be out of their power to deal in a satisfactory manner with the matters which interest the public. Consequently, with the view of protecting the great interests of general peace, and of remedying the abuses above pointed out, the prince and the members of the Yamén have the honor to submit, for your excellency's examination, a plan of regulation in eight articles, which has also been communicated to the representatives of other powers.

DRAUGHT OF REGULATIONS.

[From British Blue Book "China, No. 3, 1871."]

[Translation.]

ARTICLE 1. The Christians, when they found an orphanage, give no notice to the authorities, and appear to act with mystery; hence the suspicions and hatred of the people. In ceasing to receive children, the evil rumors which are now in circulation would at the same time disappear. If, however, there is a wish to continue this work, only the children of necessitous Christians must be received, and then the authorities ought to be informed, who would note the day on which the child entered, the name of its parents, and the day on which it left. It would also be necessary that power should be given to strangers to adopt these children, and then a good result would be arrived at. Lastly, when it is a question of non-Christian children, the high officials ought to give orders to the local authorities, who should select proper agents who could take all the measures which appeared suitable to them.

In China the laws which regulate orphanages are, that on the entrance and on the departure of the children note is made of the person who leaves them, or of the person who adopts them, of the declaration made to the authorities, and of the permission given to the parents to visit their children. When they have become bigger, they may be adopted by some one having no children, or taken back by the parents themselves, and then, no matter in what religion they have been brought up, they return to the religion of their fathers. The child ought in everything also to be treated well. In exercising this work of charity, it becomes a most worthy work.

We have heard it said that in every country matters are conducted in this respect very nearly as in China. How does it happen that once arrived in our country foreigners no longer follow these customs? They take no note of the family to which the child belongs, and they do not give notice to the authorities. Once the child has entered the house other persons are not allowed to adopt it, nor are the parents permitted to take it back again, nor even to visit it. All this nourishes suspicions and excites the hatred of the people, and by degrees a case like that of Tien-tsin is arrived at. Although we have denied in a report all those rumors of the tearing out of eyes and hearts, the people, however, still preserve doubts on the subject, and even if we succeed in closing their lips we cannot drive away these doubts from their minds. It is this kind of uneasiness which gives rise to terrible events. It would be a good thing to abolish the foreign orphanages, and to transport them to Europe, where they could practice their charity at their ease; it would then belong to the Chinese to come to the aid of these children. Besides, in every province we have numerous orphanages, and yet the foreigners wish to lend us at any price an assistance of which we have not the slightest need. It is certainly with good intentions they thus act; but it is not the less true that their conduct produces suspicion and excites anger. It would be far preferable if each one exercised his charity in his own country, and then no lamentable event could arise.

ARTICLE 2. Women ought no longer to enter the churches, nor should Sisters of Charity live in China to teach religion. This measure will only render the Christians more respectable, and will result in silencing evil rumors.

In China a good reputation and modesty are most important matters; men and women are not even allowed to shake hands nor to live together; there ought to be a kind of line of separation which cannot be overstepped. After the treaty full liberty was given to the Christians, and then men and women went together to church; hence rumors among the public. There are some places even where men and women are together not only at church, but also in the interior of the house. The public, looking at this in a light manner, harbors suspicions, and thinks that things contrary to propriety take place.

ARTICLE 3. The missionaries residing in China must conform to the laws and customs of China. They are not permitted to place themselves in a kind of exceptional independence, to show themselves recalcitrant to the authority of the government and of the officials, to attribute to themselves powers which do not belong to them, to injure the reputation of men, to oppress the people, to asperse the doctrine of Confucius, by which they give ground for the suspicions, the resentments, and the indignation of the masses. The missionaries must submit themselves, like everybody, to the authority of the local officials; and the Christian Chinese must, in every case, be treated according to the common law; with the exception of the expenses of theatrical solemnities, and of the worship of local protecting divinities from which they are dispensed from contributing to, the Christians cannot escape the requisitions and forced labor, and are constrained to accept, like everybody else, the charges imposed by the local administration. With stronger reason they cannot refuse to pay, in their integrity, the land taxes and the rents; nor can the missionaries advise them and support them in infringing the common law. Cases for litigation between Christians and non-Christians are under the equitable jurisdiction of the authorities, and cannot be left to the patronage of the missionaries. The latter cannot keep away from the courts Christians, prosecutors or defendants, which, in a trial, leads to delays and prejudices the parties interested. In the case in which missionaries allow themselves to be mixed up in affairs beyond their province, the local authorities ought to send their verbal or written communications to the high provincial functionaries, who will refer them in their turn to the Tsung-li Yamèn, in order that a decision may be eventually taken as to the repatriation of these same missionaries. In the case where Christians, in suits respecting matrimonial alliances or property in land, plume themselves upon their position of Christians to invoke the intervention of the missionaries, they will be severely punished by the authorities.

China honors the religion of Confucius; that of Buddha and of Tao, as well as the doctrine of Lamae, is also professed there. Therefore, it is contrary to usage that the latter, although they may not be Chinese, should ignore the decisions of the Chinese authorities by approving or blaming them. We hear it said that the missionaries in foreign countries are subject to the legislation of the country in which they live, and that they are forbidden to make themselves independent, to contravene the law, to

usurp authority, to attack the character of people or to prejudice them, or to arouse the suspicion and the resentment of the people. Similarly the missionaries who teach their religion in China ought to submit themselves to the authority of the magistrates of this country; nevertheless they are vauntingly independent, and do not recognize the authority of the officials. Do they not thus place themselves without the pale of the law? The Christians in China remain Chinese subjects, and are only the more constrained to remain faithful to their duties. In no case can a difference be established between them and the rest of the nation. The Christians in the towns and in the country ought to live in good harmony with their fellow-countrymen. Yet, in matters affecting the public when popular subscriptions are opened or forced labor required, they put forward their position as Christians to escape these burdens. They themselves create an exception, [in their favor.] How avoid that the rest of the nation accept this exception, [against them?] Yet more, they refuse the taxes and forced labor, they intimidate the officials, they oppress those who do not belong to their religion. The foreign missionaries do not fully understand the situation; not only do they give an asylum to Christians who are guilty of crimes, and refuse to deliver them up to justice, but they also consent to protect unjustly those who have only become converts because they have committed some crime. In the provinces the missionaries make themselves the advocates before the local authorities of the Christians who have suits. Witness that Christian woman of Sze-chuen who exacted from her tenants payments of a nature which were not due to her, and ultimately committed a murder. A French bishop took upon himself to address a dispatch to the authorities in order to plead for this woman, and procured her acquittal. This deed aroused animosities among the people of Sze-chuen, which have lasted to this day. In the Kwei-chow, Christians who go to law style themselves Christians "in the charge sheet," ("acte d'accusation,") with the sole view of gaining their cause. This is a well-known abuse. It happens also that two families being united by matrimonial ties, one is converted to Christianity, then compels the other, who is not converted, to break off the alliance. Among people of the same blood, one has seen fathers and elder brothers, after having been converted, lay an accusation for non-fulfillment of family duties against their children and younger brothers, for the sole reason that these latter had refused to be converted. These acts are encouraged by the missionaries. Are not such practices of a nature to excite to the highest degree the popular indignation?

ARTICLE 4. Chinese and foreigners living together ought to be governed by the same laws. For example, if a man kills another he ought to be punished, if a Chinaman, according to the Chinese law; if he is a foreigner, according to the law of his country. In thus acting, order will reign; it matters little the manner in which the Chinese or the foreigners treat the case, a punishment is all that is necessary. But that punishment once inflicted, they must not come and claim indemnities, and above all they must not seek the *soi-disant* abettor of the crime to exact from him a certain sum. It belongs to the local authorities to adjudicate on the differences which may arise between the Christians and the people. If it is a Pagan who has committed wrongs against a Christian, he ought to be punished more or less severely, according to the gravity of the fault; similarly if it is a question of a Christian accused by a Pagan. The official ought to adjudicate with the most perfect justice and the greatest impartiality.

If a Christian conducts himself altogether contrary to the laws, the local authority takes evidence; and if some one accuses this Christian, the latter is seized and judged. But the missionaries must not then come forward to defend him and to exculpate him. If the case arises of a missionary preventing a Christian giving himself up to the commands of the authority, the Christian alone ought not to be punished, but also the missionary, or at least he ought to be sent back to his own country.

In the sixth year of the reign of Tung Chih, a missionary, M. Mahileau, was killed in the Sze-chuen. The murderer, named Jan Lao-won, was arrested, and condemned to death. But besides that, M. Mihieres accused a man who formed part of the class of literates ("lettrés") of having been the instigator of that murder, in order to exact from him an indemnity of 80,000 taels.

The individuals who commit disorders ordinarily belong to the lowest class of the people. When they are guilty of some crime, they are seized and punished; but accusations ought not to be brought against the literates ("lettrés") to exact from them large indemnities. Such conduct excites hatred.

In the eighth year of the reign of Tung Chih, a missionary, M. Rigaud, was killed in the Sze-chuen; the cause of the murder was an alliance between two families, which fell through. Tchung Tiang-tune and Ly Tchoun-tang judged this case. They caused the murderer of M. Rigaud to be arrested, a man named Ho-tsai, and the murderer of a Christian named Lion-fou, both belonging to the lowest class. One was condemned to have his head cut off, the other to be hanged. The Christians further killed some of the people; every year there were conflicts between creditors and debtors, rapes, and fires.

The instigators of all this were Wang Shue-ting, Tchang Tien-shin, and others. It

was desired to seize and punish them, but they did not surrender themselves to the commands of the authority. Further, the Christians again, under the leadership of a priest named Tan Fou-tchen, killed Tchao Yung-lin, and 200 other persons. The surrender of this missionary was demanded; but the Abbé Mibières said that he had left for Europe, and that there was no means of arranging this case. Hence great anger among the inhabitants of Sze-chuen.

ARTICLE 5. The passports given to the French missionaries who penetrate into the interior ought clearly to bear mention of the province and of the prefecture where they intend to repair. The names and titles of the bearer, and these conditions, that he will not be able clandestinely to betake himself to another province, and that the passport is personal, will be equally comprised in this document. The missionary ought not to pass through the custom-house and toll-bar contraband articles of merchandise which are liable to duty. On his arrival at a destination other than that designated in the passport, or if this document has been handed over to a Christian Chinaman with the object of making him pass himself off as a missionary, the said passport shall be canceled. On the other hand, if it be ascertained that the bearer has gained possession of it by pecuniary payment, or that he has committed some other serious breach of the law, the individual who shall have thus falsely assumed the position of a missionary shall be punished, and the real missionary shall be sent back to his own country. In order that the control may be exercised everywhere, the name of the missionary shall be inserted in the passport, in Chinese characters, which will be taken as proof. The passport shall be canceled in cases where the titular should have gone back to his own country, should have died, or should have abandoned missionary work. Passports will not be granted in the provinces where there are rebels, nor even hereafter for those where the imperial army is operating, with the evident object of securing loyally the safeguard of the missionaries.

In support of the above scheme the Yamén will recall a missionary case which occurred in the Kwei-chow, where a certain Tchao acted as missionary, albeit his name had no place in the passport register. The Yamén received a letter on this subject from Mr. Interpreter Deveria, in which the latter showed how, according to an old French register, the murdered missionary Tchao had received a passport, dated the 2d day of the 6th month of the 4th year of Tong-che, in which he was called Joué-lo-sse; that this name of Tchao was erroneous; that the victim was really the said Joué-lo-sse; that, on the other hand, the same Joué-lo-sse was inserted under No. 325 as going to Sze-chuen, and thence to Kwei-chow. However, the Yamén was able to convince itself that neither this name of Tchao nor that of Joué-lo-sse figured on its passport register. There was, therefore, a double mistake in the name of the missionary and in that of his residence. How, then, could one establish an identity and secure to the party interested efficacious protection?

There was also an affair of murder committed by the missionary Spingaert on the person of a Russian. This Spingaert was first of all a missionary, then entered the Prussian legation as constable. He none the less retained his passport, so that he handed it over to some one else, or lost it, so that not only an abuse, in passing as a missionary, occurred, but grave inconveniences to public affairs might have arisen in case the said passport had fallen into the hands of the rebels. On the other hand, the dignity of missionaries seems to us to be seriously injured by such irregularities.

ARTICLE 6. The aim of the missionaries being to exhort men to virtue, it is befitting that, before admitting an individual to the privileges of religion, he should be examined as to whether he has undergone any sentence or committed any crime. If the examination be in his favor he may become a Christian; if the contrary, he should not be allowed to become one. One ought, moreover, to act as the ministers of our religion do, who give notice to the inspectors of the ten families, and cause the name of the person to be entered in the register with this purpose. In the same way the missionaries ought to give notice to the authorities, who will take note of the day of the month and of the year of admittance, of the country, and of the station in life of the individual, and will ascertain if he has ever undergone any sentence, or if he has ever changed his name. By acting thus all confusion will be avoided. If a Christian should be sent on a mission, and he should die on the way, notice should be given to the proper authority. If, after being converted, a person commits some crime, he should be dismissed, and no longer regarded as belonging to the religion. Every month, or at least every three months, the authorities ought to be informed of the number or conversions. The authorities, also, should act as they do in regard to our temples, that is to say, they should go every month, or at least every three months, to inspect the missions. This course will do no harm to religion, but, on the contrary, will insure tranquillity.

In the ninth year of the reign of Tung-Chih, the government of the Kwei-chow gave notice to the Yamén that at Kwei-ting-shien some people, who were formerly nothing better than thieves, were forming a part of a militia of which the Christians, Yen Yushing and Lia Tchang-shine, were the leaders. Passing themselves off as Christians these men were highly thought of; however, they committed all sorts of disturbances

killed Wang Tiang-pao and Tsouo-ing-ho, seriously wounded three other persons, and carried off from the houses not only money, but also all the objects which they contained, even down to the very cattle. In the eighth year of the reign of Tung-Chih, the governor of Kwei-chow again warned our Yamén that at Tsoun-i-shien a petition had been addressed, with the object of declaring that some rebels, of whom the leaders were Soung Yu-chan, Tang Cheun-hien, Tang Yen-chony, Tien Yuen-yuen, had embraced the Catholic religion, and that they still continued within and without the town to stir up indescribable and countless disturbances and troubles. In the same place also some people named Yang Shi-pouo, Lion Kai-wen, Chang Shioo-ning, Hono Wen-tieon, Tehao Wen-gan, had embraced the Catholic religion; and were even employed in the interior of the mission. However, outside, they practiced all sorts of exactions upon the orphans, and intimidated those who were poor in spirit. They went perpetually to the Yamén, and undertook to regulate the trials. In an affair between a Christian and a countryman, if the mandarin administered justice to the latter, they collected the Christians, invaded the Yamén, and forced the authorities to reverse the sentence. If, in spite of that, the mandarin would not give the Christian up to them, they returned with the card of a missionary, and claimed on his behalf the liberty of their friend. Besides, they committed all sorts of attempts upon persons and properties; if resistance was offered them they struck blows and did not even fear to kill, and were guilty, besides, of many other crimes.

ARTICLE 7. The missionaries ought to observe Chinese customs, and to deviate from them in no respect; for instance, they ought not to make use of seals, the use of which is reserved for functionaries alone. It is not allowed them to send dispatches to a Yamén, whatever may be their importance. If, however, for an urgent matter it should be absolutely necessary to write, they may do it; but taking good care not to speak of matters beyond the subject, and making use, like people belonging to the class of literates, of the *Sing-tieh*, (petition.) When the missionaries visit a great mandarin, they must observe the same ceremonies as those exacted from the literates; if they visit a mandarin of inferior rank, they must also conform to the customary ceremonies. They must not unceremoniously go into the Yaméns and bring disorder and confusion into the affair.

In the sixth year of the reign of Tung-Chih, the governor of the Sze-chuen wrote to us that the French bishop, Monseigneur Pluchon, had, in a letter which he sent to the authorities, made use of an official seal manufactured by himself.

In the seventh year of the reign of Tung-Chih, Monseigneur Faurie, bishop of the Kwei-chow, handed to the officer charged with the remission of the letters of the government a dispatch to the address of the Yamén to ask that marks of distinction should be accorded to a Taoutae, called Toun-Wen, and to other persons besides.

In the Chan-tung a missionary presented himself off as Sinn-fou, (provincial governor.)

In Sze-chuen and Kwei-chow missionaries took upon themselves to demand the recall of mandarins who had not arranged their affairs to their satisfaction. So it is not only the authority of simple functionaries that they assume; they claim, further, a power which the sovereign alone possesses. After such acts how could general indignation fail to be aroused?

ARTICLE 8. Missionaries shall not be allowed to claim, as belonging to the church, the property which it may please them to designate; in this way no difficulty will arise. If the missionaries wish to buy a portion of land on which to build a church, or hire a house in which to take up their residence, they must, before concluding the bargain, go with the real proprietor and make a declaration to the local authority, who will examine whether the Tung-Chony presents any obstacle. If the official decides that no inconvenience arises for the Tung-Chony, it will then be necessary to ask the consent of the inhabitants of the place. These two formalities fulfilled, it will be necessary besides, in the text of the contract, to follow the ruling published in the fourth year of the reign of Tong-tche, that is to say, to declare that the land belongs with full rights to Chinese Christians. It will not be allowed in the purchase of properties to make a transfer making use of another name than that of the real purchaser; it will also be forbidden to make this transfer in a manner contrary to law, following the advice of dishonest people.

The missionaries residing constantly in China must strive to inspire confidence, so as not to excite the discontent and aversion of the people; but, on the contrary, to live on good terms with them without ever exciting suspicion. At this moment there is almost always discord between the two parties, and the cause of it is the conduct of the Christians. So as regards the property of the church there have been claims during these last years in all the provinces, and the missionaries exact the restitution without troubling themselves as to whether it wounds the susceptibility of the people or is injurious to their interests. Besides there are fine houses belonging to the literates that they claim and expel the proprietor from them at the shortest notice. But what is worse, and what wounds the dignity of the people, is that they often claim as their property Yaméns, places of assembly, temples held in high respect by the literates and the inhabitants of the neighborhood.

Certainly, in each province are houses which formerly belonged to the church; but note must be taken of the number of years which have passed since, and it must be remembered that Christians sold these houses, and that they have, perhaps, passed through the hands of several proprietors. It must also be considered that the house was, perhaps, old and dilapidated when sold, and that the purchaser has, perhaps, incurred great expense in repairs, or has even built a new one. The missionaries take no account of all this; they exact the restitution, and do not even offer the least indemnity. Sometimes they even ask for repairs to be made, or if not, for a sum of money. Such conduct excites the indignation of the people, who look with no favorable eye on the missionaries. Such being the case no friendship can exist.

The facts which are stated in this memorandum have been chosen as examples among many others to demonstrate what is irregular in the acts of the missionaries, and to prove the impossibility of Christians and non-Christians living harmoniously.

It is urgent, therefore, to seek a remedy for the evil; both one and the other will find it to their advantage, and it will obviate this sole question of the missions becoming fatal to the great interests of peace between China and the West.

We do not attempt to enumerate the many matters which are agitating in the provinces. The object is to separate the tares from the good grain, to punish the wicked in the interest of the good. With respect to commerce, for instance, merchants guilty of dishonesty are severely punished in order to protect the honor of commerce in general. From the time that the missionaries admit every one, without taking care to distinguish between the good and the bad, these last pour into the Christian community and support themselves on the missionaries to molest people of property, and despise the authority of the magistrates. Under these conditions the resentment of the multitude grows deep. If the entire Chinese people should, like the inhabitants of Tien-tsin, come to detest foreigners, the supreme authority itself could no longer be able to interpose efficaciously. Such are the dangers which the present situation implies.

The rules which we now propose are the last expression of our firm will to protect the missionaries, and have nothing in their import hostile to them. If they sincerely endeavor to conform themselves to them, good harmony might be maintained; if, on the other hand, the missionaries consider these same rules in the light of attempts upon their independence, or contrary to their rites, they may cease to preach their religion in China. The Chinese government treats its Christian and its non-Christian subjects on a footing of perfect equality; that is the evident proof that it is not opposed to the work of the missions. In return, the missionaries, allowing themselves to be duped by the Christians, do not adhere faithfully to their duties. From this state of things a hatred of the masses must result, which it will be very difficult to combat, and a general overthrow of order, which will make all protection an impossibility. It would be far better from henceforth to speak the truth frankly.

No. 41.

Mr. G. F. Seaward to Mr. Davis.

No. 478.]

UNITED STATES CONSULATE GENERAL,
Shanghai, August 22, 1871. (Received Oct. 23.)

SIR: On the 21st of June, 1870, occurred the massacre at Tien-tsin. The consul for France at that port, the vice-consul the interpreter of the French legation at Peking, and his wife, a Roman Catholic priest, nine Sisters of Charity, a French subject engaged in trade, and his wife, and three Russians (one a lady) were most barbarously murdered. It has been asserted also that very many Chinese connected with the consulate, the Catholic cathedral, the hospital for native children under the control of the Sisters of Charity, and with various mercantile establishments were similarly sacrificed.

It is important to know the causes which led to the massacre, the circumstances which attended it, and the course pursued by the government toward the offenders. Such knowledge will throw light on the Chinese character and the condition of the Chinese mind, and it will instruct us how to deal with this imperfectly known people. History, it is said,

repeats itself. If the massacre was the result of causes which are still operative, we may see a renewal of its horrors. It stands out in the course of our relations with China with dread prominence. It should be made a beacon of warning.

To the citizens of Western states the Chinese people offer a complete riddle. They are pronounced by some observers the most peaceful and industrious race under the sun. By others they are declared to be crafty, rapacious, and cruel. One person gives them a foremost place among the nations, and predicts that a few years will correct the slight evils which exist in their system. Another holds that their nationality is decayed and their stock worn out; that they are too far gone to accept ameliorations of their religion or policy. To many they seem possessed of a chief share of the wealth of the world, which is described as having flowed to their shore for centuries. Others say that their towns and cities are squalid, and that beggary is seen on all sides. One is of opinion that education is so universally diffused that there is scarcely a man in the empire who cannot read and write. Another proclaims that they are groveling in depths of ignorance and superstition.

Mr. Burlingame, with that wealth of generosity which characterized him, nourished in his imagination the more attractive qualities of the Chinese. There was so much that was exalted and honorable in his views, so much that touched the generous sentiments of the age, so much withal that was true and capable of demonstration, that he aroused the enthusiasm of our people. He was only less successful in Great Britain, in North Germany, and in Russia. France alone distrusted him and his client, profoundly and consistently.

But even while the wandering eloquent envoy was pursuing his mission, news of outrages committed in widely separated parts of the empire threw discredit upon his representations. He was only a few months in his grave when the news of the fearful tragedy at Tien-tsin was flashed to the ends of the earth. During the next few months the items of information received from China contained indications that the Government was preparing for war; that further outrages were greatly feared, and some minor ones actually committed; that redress at Tien-tsin was tardy and inefficient. A little later reports were published that the government had put out a decree intended to expel missionaries from the interior of the empire, and to hamper their efforts at the ports. The last effects of Mr. Burlingame's glowing statements were then effaced, and an impression left that the Chinese entertained an unyielding, bitter hatred of foreigners.

Where, then, shall the mind rest when it contemplates the Chinese qualities and disposition, the future of foreign intercourse and of the empire. The prevailing tendency among foreigners in China is to debase the Chinese to a very low place in the scale of nations, to belittle their intellectual capacity, to condemn their morals, to declare them destitute of vitality and energy. Each person who argues the case finds facts ready for his use which seem to him to demonstrate his own particular view.

I confess that the case is different with me. Faith in the race is a matter of intuition with me. I find here a steady adherence to the traditions of the past, a sober devotion to the calls arising in the various relations of life, an absence of shiftlessness, an honest and at least somewhat earnest grappling with the necessities and difficulties which beset men in their humbler stages of progress, a capacity to moralize withal, an enduring sense of right and wrong. These all form what must be considered an essentially satisfactory basis and groundwork of national character. Among the people there is practical sense, among

the gentry scholarly instincts, the desire for advancement, the disposition to work for it with earnestness and constancy. Among the rulers, a sense of dignity, breadth of view, considering their information and patriotic feeling. Who will say that such a people have not a future more wonderful even than their past? Why will not the wheels of progress and empire roll on until the countries of Asia witness again their course?

It is of course true that different races exhibit generally different capacities and qualities. But we are likely to be deceived by appearances, and to attribute to differences of stock peculiarities which might be explained by a statement of differing circumstances.

Holding fast to this idea, we may proceed to investigate the causes of the massacre, just as we would a similar case elsewhere occurring. If like causes will produce like effects in China as elsewhere, if ordinary rules of evidence and an ordinary spirit of justice are to be regarded, we ought to set down naught to malice until malice is fairly proven. We ought to ascertain by careful inquiry what induced and actuated the malice. We ought to discriminate between its developments and the general tendencies of the people, if we find special circumstances existing to which we can trace the occasion of the massacre in whole or in part.

In truth, there were many and diverse causes of the massacre. Elements of danger flowed in from widely separated sources. Their combined stream was resistless.

In exhibiting these causes, I shall state—

First. The general elements of hostility to foreigners, the general reasons why the Chinese dislike and distrust us.

Second. The forms which this distrust has taken, having reference practically to the forms exhibited at Tien-tsin.

Third. The special circumstances of an exciting character which were present and active at Tien-tsin.

Foremost among the influences of a general character which are averse to foreigners, may be set down

PREJUDICES OF RACE.

We all know that prejudices of race exist everywhere. Those entertained by the white people of the United States toward the blacks offer a ready and strong instance. I suppose it would be difficult to find, even among the most advanced advocates of equal rights, a single respectable white man in America who would be willing to sustain intimate relations with one of the despised race. Aversion to the negro has its correlative in that universally felt for the Indian. Not all the pages of romance and of poetry devoted to illustrations of their higher qualities have been able to affect greatly the current of sentiment against them. So, the Chinaman who visits our shores must meet unconcealed suspicion and hatred. We invite emigration from other countries, and no power is strong enough to turn or check any of the streams which make its tide. Hostility to the Chinese is so great that immigration is limited to a fraction of its normal flow.

Prejudices and antipathies of race are so strong, indeed, that we expect the most serious consequences when people of different stocks are brought suddenly into intimate relations. The question is not, will hostile feeling follow such contact, but how may intercourse between races of different characteristics be carried on so that the fewest conflicts shall occur?

A second reason why the Chinese are averse to foreigners may be found in

THE EXCLUSIVE POLICY OF THE EMPIRE.

The situation of China is such that she has been able to work out her development for the most part free from foreign intercourse. Her territory extends from the Pacific on the east to mountains on the west, which offer an almost equally impassable barrier. On the north are mountains and vast stretches of desert, on the south the jungles of the tropics. Within her boundaries are many water-courses forming admirable channels for communication and commerce. There are widely extended and fertile plains. The climate is agreeable everywhere, and marked by similar features.

It is not a matter for wonder that a people living in the undisturbed possession of such a country should avoid intercourse with the outside world, and that, having successfully done this for a long period, they should cling to their policy with a strength that can be measured only by its antiquity, and by the numbers of the empire.

A third reason why the Chinese are averse to foreigners may be found in the fact that

THEY ARE AN IGNORANT PEOPLE.

There are perhaps 25,000 characters in the Chinese language. A good knowledge of 10,000 of these would suffice for the requirements of any of the higher walks of life, say of statesmanship; but such knowledge implies a great deal of study. Seven-eighths of all the characters in the language have been formed from 2,000 symbols; until these are known neither the sound nor the sense of a compound word would be more apparent to a Chinaman than to any one else; but the meaning of a compounded character is seldom deducible from the symbols. Each character has still to be learned, just as words are in other languages.

It will be understood that the practical difficulties of the language are very great. It is about the result, however, that we need to be informed.

I am assured that about three Chinamen in each one hundred can read works written in a full or classical style. The number of women would be one in a thousand.

The Chinese, then, must be set down an uneducated people. As such they are necessarily superstitious and suspicious. They cannot justly estimate the bearing and weight of the facts which they observe. They are likely to imagine that they are beset by dangers and difficulties where none exist.

A fourth reason may be found in

DIFFERENCES OF RELIGION.

It is often said that the Chinese are very tolerant of religious opinions; that in fact the greatest difficulty met by the Christian missionary arises from the apparent absence of religious sentiment.

If this be so, the Chinese are comparatively free from influences which have in all ages and countries greatly affected the minds of men. It is not necessary to recount struggles to defend or to impose faiths which are exhibited in history, the division of races into ranks and castes dependent upon priestly influence. With mankind at large it is believed that conceptions of supernatural agencies, of future states of existence,

of divinely imposed rewards and punishments, are universal. It cannot be that the Chinese are exceptional in this respect. If so, why do temples for the worship of superior powers exist everywhere in the land? why does the priestly class form a considerable fraction of the population?

It is perfectly safe to say that China has her confirmed beliefs. If this is so, the incoming of people to proselyte must be regarded with great disfavor. I should so believe if I recognized no elements of discord excepting those which must spring from the priests. If they are earnest men they will cherish their faith from a sense of duty. If they are simply selfish they will do so to preserve their authority and power. In either case, missionaries must expect the hostility of a class that has seldom failed to play a prominent part in the control of states.

But whether the introduction of new religions by ordinary methods would or would not give rise to hostile feeling, it is certain that methods have been resorted to which have occasioned the ill-will of government and people in a marked degree.

Various allegations have been made against Roman Catholic missionaries. It has been alleged that the bishop of one of the western provinces resides in a palace which vies with that of the viceroy; that he uses a palanquin decorated in a way allowed only to the highest officials of the empire, and that his progresses from one part of his diocese to another are made in a regal way. It has been asserted that the priests claim the right to correspond with the officials on terms of equality; that they combine with and arrange combinations among their converts to defeat the objects of the government; that they claim for their converts various unusual and objectionable immunities; that in fact they are building up a rule within the territorial rule which is very dangerous to the state.

One who has studied the history of the Roman Church cannot be surprised when he hears that China is seriously alarmed; but we can estimate the actual danger more perfectly than she. Any exposition of her fears which she is likely to make will exhibit many puerilities. Yet we must admit that her statesmen would be unwise if they should fail to study the problems which the presence of the church presents.

A fifth occasion of the hostility of the Chinese may be found in

THE OPIUM TRADE.

The value of the opium imported into Hong-Kong in the year 1870 was, (Mexican).....	\$62, 988, 624
The tea exported from China reached the value of.....	\$40, 376, 849
The silk, the value of.....	32, 021, 916
	<hr/> 72, 398, 765
A difference of.....	<hr/> 9, 410, 141

Sixth-sevenths of the products of the empire, valuable for exportation, are thus consumed in a drug which is absolutely deleterious to the people. Let people interested gloss over the opium trade as they will, let the government and people of Great Britain plead that opium is necessary to correct the diet of the Chinese, the fact remains that the connection of foreigners with it is a blot upon their civilization, an occasion of deep and bitter resentment on the part of the Chinese.

A sixth occasion of hostile feeling may be found in

THE EXTRATERRITORIAL SYSTEM.

As you are aware, clauses exist in the treaties between China and western states by which the citizens of the latter are freed from the control of the territorial authorities, and made subject only to the functionaries of their own countries.

Such a condition of intercourse cannot be otherwise than distasteful to China. It is based on the undisguised assumption that foreign states cannot trust her to act with justice toward their people. It is a standing humiliation, and occasion of resentment. The government is in many respects a proud one. The nation entertains a radical belief in its own superiority. When, therefore, western states, by force of arms, impose upon China an unusual system, one which they would never yield to others, it is not wonderful that deep resentment is aroused, and that prominent statesmen have been led to declare that they will not long submit to the indignity.

It would be difficult to say that the extraterritorial system is not often productive of injustice to the Chinese. We cannot always have wise, upright, and unprejudiced judges in our eastern establishments, men who know what substantial justice is and are prepared to yield it to despised Chinese suitors, in face of foreigners and their interests. And even should substantial justice be accorded, the interests, passions, and prejudices of the Chinese will often lead to the most serious disagreements. A few years ago the viceroy at Nanking, in presenting a case on behalf of some poor boat-people, whose vessels had been sunk by a foreign steamer, declared that the frequency of such accidents had so aroused the people along the river that he feared they would endeavor to make reprisals should the foreign courts continue to refuse redress. More lately the viceroy at Tien-tsin became incensed because an unfavorable judgment had been given in a similar case, and threatened to seize and hold the steamer until payment should be made. The people of Shanghai once seized and maltreated the native magistrate because he had not procured a favorable decision in a case which had aroused their sympathies.

A seventh reason why the Chinese dislike foreigners may be found in

THE TEMPER AND TONE SOMETIMES EXHIBITED BY FOREIGN OFFICIALS AND OTHERS.

A prominent instance of the rampant style sometimes used by foreign representatives is that of M. Bellonet, detailed by Mr. Burlingame in the diplomatic correspondence of 1866. Such instances have been rare at Peking, where foreign governments have been well represented, as a rule. At the ports, the case is different. The mercantile communities demand that the consuls shall be vigorous. These have often no way to show vigor, excepting by complaining to the native officials in a strenuous way. Gun-boats have been used to effect the settlement of disputes, property has been seized, and lives sacrificed at the bidding of consuls.

The disposition to override the more mildly disposed Chinese is frequently seen at the foreign settlements. Older residents and men of refinement treat the natives with uniform consideration. Younger men, new-comers, and those low in the social scale, are seen to push them rudely in the streets, and to strike them with whips when riding and driving. Masters of ships and steamers have, in times now I hope passed by, carelessly run down native boats, not stopping sometimes to pick up the unfortunates.

Our reputation with the government and people has been greatly affected in this way, the kindness, the generosity, the deference, the high qualities shown by very many foreigners finding its more apparent and powerful opposing influence at the harshness and brutality exhibited by others.

An eighth occasion of hostile feeling may be found in

THE UTTERANCES OF THE FOREIGN PRESS.

The impersonal aggregate tendency of foreigners in China is toward aggressive measures. I have heretofore explained this, and urged that it is natural and commendable. I do not esteem the man who, in full view of the many imperfections of this system and the undeveloped state of their country, thinks that all is going on well in China. I wish the representatives of the civilization of the West to be urgent, but ever respectful. It is our duty to set before the Chinese the golden opportunities they are losing, and the dangers which assail them. I hold that this may be done in such manner that animosity will not be aroused. I know that both officials and people are ready to receive advice, and that they seek for it from men whose counsels they have come to respect. Confidence grows slowly with them, but is firmly rooted.

The foreign press represents the aggressive tendency of foreigners, and being printed for them does so in a radical way. Its temper is not always just, its information often defective and partial, its expressions severe. The Chinese know more or less of what appears in its columns.

I do not doubt that very much rancor is thus occasioned. The general result must be beneficial, however, even though the press has no more grateful task to perform than to hold up, as it were, a mirror in which the Chinese may see their deformities.

Having thus recounted certain inevitable and indisputable causes calculated to draw down upon us the ill-will of the Chinese, causes the tendency and scope of which we can estimate but the effects of which must be determined by experience, I pass on to state the forms which this ill-will took at Tien-tsin.

At this point my task becomes an unpleasant one. I have spoken of my faith in the Chinese. The story that is to be told will seem to belie my favorable declarations. I shall have to recount some of their superstitions. They are dark and hideous, and the lurid light of the massacre will exhibit them in their worst aspects. Let it be remembered, then, that the good sense and the good will of the Chinese are so great that, in the main, our relations move smoothly, that the massacre is after all an exceptional incident in our intercourse.

Soon after the massacre occurred, Teeng Kwo-Fan, viceroy of Chihli, the province in which Tien-tsin is situated, a man who has played a prominent part in the recent history of the empire, was sent to investigate its causes. With him was associated Chung-How, now ambassador to France, a commissioner of foreign trade, and honorably engaged in many matters of a special character. About one month after the date of the massacre these high officers put out a proclamation, (page 125, British Blue Book, China, No. 1, 1871,) in which they stated various charges that the people of Tien-tsin had preferred against the members of the Roman Catholic establishments. These were as follows:

1. That they kidnapped and bewitched people.

2. That they mutilated bodies to obtain ingredients for the concoction of medicines, even killing children to this end.

3. That the priests were given to the seduction of women.

At a later moment I shall inquire what immediate reasons, real or apparent, the Chinese had to believe these charges. But I will show first that such charges were not new at the empire, but have been widely urged in different parts of it, and indeed that they are founded upon beliefs and superstitious common among the Chinese, apart from their intercourse with foreigners.

The first charge which I have recited is that of *kidnapping*.

Under this head I quote from the North China Herald of June 23, 1870, as follows :

Thirty-five years ago a writer complains that kidnapping is growing more and more common in Canton. The way was, "for kidnappers to give notice to the parents that if a certain sum were sent, within a certain time to a certain place, the girl would be returned, otherwise she would be sold as a slave." A little later mention is made of the crime at Peking and Macao. That notable publication, the Peking Gazette, spoke of it as "a gross infraction of the laws, which ought to be carefully investigated and prohibited." In 1833 we find a complaint in the Canton Circular that there are "several hundred of kidnappers in and about the city of Canton, who are constantly carrying off and selling young women and children, and gain their livelihood by this infamous traffic." "In 1834 a censor complained to the Emperor about a system of kidnapping children and young persons in Peking."

Kidnapping, indeed, is fully recognized and provided for in the penal code of China. As the paragraphs are long and explicit, I content myself by giving the following résumé by Mr. Wade, the British representative at Peking. (Blue Book, p. 40.)

It is laid down in the second by-law, appended to the statute, against "the obtaining possession of persons by unlawful means, or the sale of persons so obtained possession of, as amended in the year 1801, and again in 1806, that whosoever shall entice away a boy or a girl, either for sale, for purposes of marriage, concubinage, or adoption, whether the same be bond or free, whether the sale of the same shall have been completed or not, shall, if the person stolen were no party to the act, be punished, the principals by being garroted after detention in prison till the autumn assize, the accessories with 100 blows of the heavier bamboo, and banished 3,000 li."

The bewitching of people, referred to in connection with foreigners, seems to be effected, according to the Chinese, by the use of drugs, the purpose being to facilitate kidnapping.

Mr. Wade at the same place quotes the provisions of the penal code where drugs are used in kidnapping, as follows :

If a child, boy or girl, be kidnapped by the use of medicated cakes, to stupefy, or by other bewitchments, the principal shall be strangled at once, and the accessories banished to the frontier, there to do military service.

The following curious case is quoted by Mr. Wade from a Chinese case book, printed in the year 1834.

In the year 1808 the governor of Canton memorialized that Lin-a-Kuei and his wife, Nee Liang, went about the country in a boat begging, in company with one Li-a-San. It so happened that Li-a-San met with a venomous snake, and having been told by some one, whose name he did not know, that the poison of snakes could be converted into a stupefying drug, he killed it, burnt it, and taking the remains on board the boat, arranged with Lin-a-Kuei to set about stupefying and kidnapping children.

The boat arrived at a place in Kai-ping-Sisim just as a popular festival was in progress, and it occurred to Lin-a-Kuei to make his wife dress up as a respectable spectator of the feast, to furnish her with the drug, and set her to stupefy and kidnap a female child. In the street of the village the woman met with Chin-a-tui, the daughter of Chin Hon-tsung, carrying some cash with which to purchase cakes. She rubbed some of the drug on the child's head, who at once became bewitched and followed her to the boat, into which she was forcibly carried by Lin-a-Kuei. Chin-a-tui screamed, whereupon the woman Liang gagged her with her hand. The boat then got under way, and on reaching an unfrequented spot, Lin-a-Kuei ordered the woman Liang to bind the child and dose her with a stupefying draught. The woman Liang then held her down with a plank across her shoulders; and while Li-a-San held her

hands and feet, Lin-a-Kuei cut the sinews of her wrists and ankles. Her eyes were pierced by the woman Liang with a needle. Having thus cobbled and blinded her they intended to make her support the company by sending her out to beg. In this case Li-a-San died in prison; the woman Liang and Lin-a-Kuei were sentenced to summary decapitation, in accordance with the provisions of the code in cases where robbery (kidnapping) has been committed by means of stupefying drugs.

THE MUTILATION OF BODIES TO OBTAIN INGREDIENTS FOR THE CONCOCTION OF MEDICINES, AND THE MURDER OF PEOPLE TO THIS END.

The writer in the North China Herald, from whom I have before quoted, says :

Dr. Porter Smith has shown us that the idea of children's bodies being used in the manufacture of medicine is familiar to the Chinese. He points out that the last of the sixteen great classes, into which all medical substances are divided in the Penn-Tsan-Kang-Muh, is devoted to a description of, at least, thirty-nine kinds of medicines derived from the human body, in its various conditions of sex and age. The skin, bones, flesh, brain, nails, sweat, blood, tears, and many other secretions too numerous to mention, are all directed to be used as medicine.

The sixth annual report of the Hankow Medical Mission Hospital contains the following statements :

The Chinese believe that any sick or unsound part of the human body may be recovered or renewed by appropriating the similar part of another person in whom that organ is sound.

From the same report I quote again :

Eyes and other portions of the human body, removed in the course of hospital practice among the Chinese, are often preserved in spirits of wine as interesting and instructive memorials. This is just the way in which the natives make preparations from such disgusting things for actual medical use.

The North China Herald of July 22, 1870, gives an extract from a Peking letter, as follows :

The Peking Gazette of July 5 contains some interesting matter in connection with Chinese civilization generally, and more particularly with the theory of the treatment of disease by means of portions of the human body cut off for the purpose. Ma-Haim Yi, the governor general of the two kiangs, memorializes the throne to the effect, that a young girl of Kiang-Ming-Fu cut off two joints of one of her fingers and put them into the medicine which her mother was taking for a disease which the physician had pronounced incurable.

The traditional and orthodox custom for which, as the memorial says, there are numerous precedents, even in recent years, is to use a portion of the flesh of the thigh. This, the young girl, aged only fifteen, actually attempted to do, but had not either strength or courage to do. The governor general indulges in boundless laudation of this most commendable act of filial piety, which had, of course, its reward in the immediate recovery of the mother. He begs that the Emperor will bestow some exemplary reward on the child, such as the erection of a triumphal arch in the neighborhood to commemorate the act. By this means, he says, filial piety all over the world will receive encouragement. The Emperor in his reply refers the matter to the Li-pu (board of rites) for consideration.

Mr. Wade, in his memorandum on the Chinese law upon kidnapping, gives the following note :

In a case where a woman, calling herself a curer of toothache, procured an abortion of an illegitimate child, the bones of which were stewed and formed a portion of a philter for producing insensibility to punishment, the chief criminal was strangled in accordance with the enactments against such as practice and teach magical arts how to endure punishment.

Six days before the massacre the Tantar at Chinkiang issued the following proclamation :

Whereas, of late, whenever young children have been kidnapped at various places along the river (Yangtse) by means of stupefying drugs, it has always transpired, through the depositions taken from time to time by the local authorities, that the

culprits had taken passage in steamers and conveyed their children to Shanghai, where they were sold for the purpose of having their eyes scooped out and their private parts cut off, to be used in the preparation of mysterious drugs, a fact also now lamentable! And whereas it is presumed that the captains and Chinese stewards who traverse the rivers and coasts on board the steamers are not wanting in benevolence and rectitude, a special appeal is made to them, to be careful in noting whether they have any passengers travelling without their families, but having in charge any young boys or girls, and if such persons cannot give a good account of themselves, while their appearance is clearly suspicious, to watch them, and lay private information against them at the custom-house, on their arrival in port. The customs officials will, thereupon, seize the individuals and forward them to the Tantar for trial and punishment.

The British consul at Chefoo, writing to his superior at Peking, under date of July 1, 1870, (Blue Book, p. 77,) records the following conversation with the Tantar, (chief local magistrate,) at his post:

I communicated the particulars of the massacre to the Tantar, who, when I mentioned that the dreadful outbreak owed its origin to the false reports previously circulated with reference to the kidnapping and mutilation of children by the French missionaries, interrupted me with the question: Oh! now tell me what is the real truth about this matter. Do they really make away with children as the people say? I replied that I was astonished to find a man so well informed as the Tantar asking such a question; he must know as well as myself how thoroughly baseless were these calumnies, which had no foundation in reason, however much they might be strengthened by ignorance and superstition, and added, that it was precisely because the authorities at Tien-tsin apparently had resembled him in admitting even the appearance of a doubt on the subject, that the mob had become incited to the degree of which information has reached us. A long argument ensued, the Tantar maintaining that accusations which have endured for three hundred years must have at least some foundation in fact, and that the Roman Catholics, by their secret practices and objectionable doctrines, have themselves to blame for any popular resentment they may provoke.

Tseng Kwo-Fan, governor general, and at one time generalissimo, is quoted by Sun, prefect of Yang-Chow, in a letter dated September 6, 1868, and printed in the British Blue Book, China, 1868, No. 2, as saying:

The missionaries must not return for several months. I will refer their case to the Tsung-li Yamen, (Board of Foreign Affairs,) and when the yamen, after consultation with the foreign ministers, informs me that it has come to the conclusion that the missionaries really do not abstract brains and eyes, I will, myself, issue proclamation to that effect to the gentry and to the people at Yang-Chow, after which the missionaries may return.

Matter of this sort may be detailed without limit. There is no end to the stories adverse to foreigners, to vile imputations against them which circulate among the Chinese, stories and imputations which are ever tinged by vices familiar among them, or firmly based in superstitions they have cherished for centuries. I have not quoted from anonymous placards or documents intended to be incendiary.

I have taken matter put out by high Chinese officials. The case I have made is indubitable.

Touching the charge that I have further recounted as found in proclamation of Tseng Kwo-Fan, and Chunghow, to wit:

THAT THE PRIESTS ARE GIVEN TO THE SEDUCTION OF WOMEN,

I need say little.

- I am told that the Chinese, who would be naturally disposed to distrust profoundly the celibacy of the Roman Catholic priests, place as little faith in them, in this respect, as they do in the Buddhist priests, who are notoriously vicious. A book has been recently printed in Chinese, and largely circulated, which contains the vilest stories imaginable of the lewdness of the priests, repeated with particularity and great variety of detail. I doubt not that it receives the implicit faith of a great portion of its readers.

Going back in a general way over the charges thus made against foreigners, I have to remark that they should not surprise us. They have, in the first place, a substratum of fact.

Kidnapping has been practiced extensively in China by foreigners, or by Chinese in the employ of foreigners. I refer to the coolie trade, the last of which has not yet been seen. I do not doubt that in years gone by the number of Chinese carried off against their will, to be sold into a servitude from which death might be esteemed a happy relief, has reached annually ten times that of the foreign men and women murdered at Tien-tsin.

There is no direct evidence to connect the charge of kidnapping, alleged at Tien-tsin, with the outrages of the coolie trade; but as communication between the south of China, where they have occurred, and that port is constant, it may well be supposed that the facts were known there, at least in a general way.

No further basis for the charge that foreigners mutilate bodies occurs to me than the fact that we frequently make post-mortem examinations, and that we preserve specimens of abnormal human growth in spirits. Dr. Porter Smith says that these specimens "often speak illustrated volumes to the credulous Chinese."

The use of the wafer, so called, in the administration of the Lord's Supper, has given rise, it is said, to many absurd stories, the Chinese attributing to it the ability to render the person eating it infatuated with the person administering it, and with the religion. The book referred to above, the "Death Blow to Corrupt Doctrines," is full of stories of love-potions administered by the priests.

Nor are the tales prevalent among the Chinese, that children are killed by foreigners, entirely without a seeming support in facts.

The Romanists are said to have implicit faith in the saving efficacy of infant baptism. As a consequence they receive young children into their hospitals in the last stages of sickness; this practice, and the frequency of deaths giving support to the belief that they have occasion to use the bodies of children for mysterious purposes.

The secrecy, or perhaps it should be said the privacy, observed in the Roman Catholic hospitals and asylums gives rise to many suspicions. I quote as follows from a synopsis of the celebrated Missionary Circular. (Note to Rule 1.)

It is the custom in China for the superiors of native asylums to report all particulars touching the inmates to the magistrates. Parents of children can see them. If any one wishes to adopt a child it can be done, and parents may, when they wish, take their own home again. Similar regulations, we understand, exist in foreign countries, but in China when once a child is put into an asylum it can never be visited again, the parents cannot get it back, no one else can adopt it. Such a mode gives rise to grave suspicions, and though it has been proved that nothing like the gouging out of eyes or cutting out hearts is practiced, yet owing to this secret mode of managing the asylums the people still have doubts.

One cause of the outbreak upon the Rev. Mr. Taylor's mission at Yang-Chow, about which I wrote at length last year, (Diplomatic Correspondence, 1870, p. 349,) was the fact that, contrary to Chinese ideas of modesty, the male and female members of the mission were seen to exhibit an apparently unrestrained intimacy.

As in other countries the confessional in China has been the occasion of bitterly adverse criticism. The practice of allowing men and women to mix indiscriminately in public worship has given rise to denunciations such as were visited upon Christians in Pagan Rome. The Missionary Circular touches this point also.

An able writer in the Westminster Review, J. Barr Robertson, esq.,

of Shanghai, dwells forcibly on the fact that there is much in the disposition of the Chinese to impute to foreigners mysterious and malicious practices to remind us of the belief in witchcraft prevalent in Europe and America one hundred and fifty years ago. I requote from his article what is said touching this delusion, by Lecky, in his book, "Rationalism in Europe:"

The predisposition to believe in the miraculous was so great that it constructed out of a small germ of reality the vast and complicated system of witchcraft; accumulated around it an immense mass of the most varied and circumstantial evidence; persuaded all the ablest men for many centuries that it was incontestably true; conducted it unshaken through the scrutiny of the law courts of every European nation, and consigned tens of thousands of victims to a fearful and unlamented death. It resulted not from accidental circumstances, individual eccentricities, or even scientific ignorance, but from a general predisposition to see satanic agency in life.

One peculiar feature of the witchcraft delusion was that the persons charged as witches frequently, and with great particularity, confessed their evil agency. We now understand that, in consequence of the excitement of the public, persons so feared that they might become the vehicle of satanic influence that they at last came to be convinced that the spell was upon them. It was only a different phase of that constitution of the human mind which permits one person to witness angels attending his way, heaven itself opening to his upturned view, while it inflicts upon another constant visions of devils and visitation of all dire influences.

So it is possible that the belief in the malpractices of the Roman Catholic missionaries has so affected the people that different individuals have come to believe they have themselves, or in their families, suffered from their malevolence.

It is certain that Chinese have, at different times, given evidence directly incriminating foreigners. Such is the tenor of the Chinkiang Taulais proclamation, and it is directly declared in the report of the governor general at Nanking. (Diplomatic Correspondence, 1870, page 366.) He says:

One kidnapper was taken almost in the act, and when before the authorities he stated that a man named Choo-Teh-Shing, belonging to the Roman Catholic establishment, was his principal.

The popular belief in the mysterious practices of foreigners has been strengthened, doubtless, by an important agency. The use of torture is common in China. It is permitted, even required, by the laws of the empire. No man can be punished for the commission of a crime which he has not confessed. Magistrates, therefore, torture persons, of whose guilt they are convinced, until they procure confessions.

Such an engine is terrible for harm. It has been the chosen resource of despotism and intolerance in all ages. There is no evidence which cannot be wrung out by its use. There is no crime, the confession of which cannot be procured. Men will die at the stake rather than face the agencies of a thousand deaths, which it may inflict. He who holds it wields a greater power than that of life and death.

I need not that confessions have been wrung from many poor wretches in China incriminating foreigners in whatever way prevalent superstitious have demanded. Nor is it necessary that actual malice should be present. People demand the use of torture where its use is common, and refuse to believe statements not made under its pains. The suspected person, on the other hand, hastens, in anticipation of torture, to confess the offenses of which popular opinion has pronounced him guilty.

Having thus briefly reviewed the reasons why the Chinese distrust

and dislike foreigners, and the general forms which this distrust and dislike have taken, having reference always to the forms exhibited at Tien-tsin, I proceed now to deal with the massacre, my task for the moment being to indicate

THE SPECIAL CIRCUMSTANCES OF AN EXCITING CHARACTER WHICH WERE PRESENT AND ACTIVE AT TIEN-TSIN.

These circumstances will most clearly appear if stated in the course of a general description of Tien-tsin, of the events preceding the massacre, and of the massacre itself.

The city of Tien-tsin is situated on the right bank of the river Pesho, sixty miles from the gulf of Pechili. It is at the head of navigation for sea-going craft, native and foreign; and the sea-port for Peking, and an immense district lying north and west of that city. The population numbered about 400,000.

A populous suburb extends from the river above the native city to the foreign settlement. The neighborhood of Chung How's yamen and the French consulate is also well-built over. The bridge of boats connects these districts, and is used by travelers toward the capital and the north. It is closed when in use, and open when a central boat is displaced to allow the passage of river craft. The prominent native officials resident at Tien-tsin were the superintendent of trade, the tantai, the chi-fu, and the che-hsien.

The first of these was Chung How, of whom I have already spoken. He is a Tartar, and said to be related to the imperial family. He is an able man, ambitious to be useful and to advance himself. He had been many years at Tien-tsin, and had succeeded in drawing the government into enterprises of which he had charge. The drilling of troops after European methods was one of these, and the establishment of an arsenal and of powder-works were others. Having met him, and been long familiar with his reputation, I judge that he is well disposed toward foreigners, and likely to be just in his dealings with them.

Next in grade was the tantai, sometimes called by foreigners the intendant. He was the chief local executive officer, and had charge of one-half the province, if I am rightly informed. Under him were the chi-fu, or fue, called by foreigners the prefect, and the che-hsien, called indiscriminately the sub-prefect and the district magistrate. These two were in fact the peace-officers of the city. They were banished after the massacre because of their failure to maintain order. (Decree of October 15, 1870, Blue Book, page 224.) Both had judicial functions and control of the police of the city.

It is impossible to offer from any foreign source or sources an original narrative of the massacre, as but a few foreigners who were near the scene were saved, and these saw only a small part of it. One gentleman named Coutres was in the yamen of Chung How, when in or near it the French consul was first assailed, but he seems to have made no detailed statement, while the particulars narrated by him from time to time vary so greatly that one is indisposed to credit anything he says which is not supported by independent evidence.

There are, however, three letters extant, which throw a flood of light on the subject. The first of these was written by Chung-How to the Foreign Office at Peking on the 19th of June, two days before the massacre; the second, by the French consul to his minister on the morning of the 21st; and the third, by Chung How to the Foreign Office on the afternoon of the fatal day.

The first of these, as given in the Blue Book, page 12, reads:

You have doubtless received my letter of the 4th of June, on which I requested you would deign to bestow your attention.

At the beginning of this month, the popular mind being disturbed in consequence of an extraordinary long drought and want of rain, rumors of all sorts prevailed. The first of these was to the effect that young children were being drugged and kidnapped. This was followed by a story that bodies of children had been laid bare in the public cemeteries on the eastern bank of the river. The district magistrate of Tien-tsin made inquiries into the case, from which it appeared that these children had been buried by the Sisters of Charity. It was then further stated that the eyes and hearts of these children had been torn out, but there was no evidence of this. Later on, the prefect and district magistrate apprehended two kidnapers named Chang-Chuan and Kuo-Kuai, who having been convicted of drugging and kidnapping, were put to death on the spot, by the local magistrates, in obedience to orders contained in a circular issued by his excellency the governor general of Chih-li. Although they confessed having torn out eyes and hearts for the manufacture of drugs, yet their statements in no way implicated Christians.

Subsequently, Shen Hsi-pao, a teacher in the Roman Catholic establishment, returning home in company with his pupil, Wu Cheng, was mistaken by the people for a kidnapper, and was arrested and assaulted, but on investigation of the case by the magistrate, it was proved that they were really teacher and pupil, and that no kidnapping had taken place. He was sent to me. I informed the Catholic missionaries, and they took him away.

On the 18th of June, Wu-Lan-Chen, the kidnapper of Li-so, was caught at Fao-hua K'ou by some natives of the place, and sent before the magistrate. He implicated Wang San and other residents in the Roman Catholic establishments. Chou Tansai reports that on this he proceeded in person to the French consulate, and had a conversation with Monsieur Fontanier, the French consul, on the subject; that he gave him the minutes he read; and that the consul for his part, in view of the great number of stories in circulation, agreed to take action.

I now forward for your information a copy of the deposition of Wu-lan-chen, made before the district magistrate. As soon as the case has been thoroughly investigated, and action taken, I will report further. Meanwhile I have the honor to present this note.

With respectful compliments.

Wu-lan-chen's statement, (a kidnapper apprehended June 18.)

I am a native of Ning Chin Swien, and 19 years of age. My father and grandfather are still alive. My father's name is Wu Tsun, and he is in his 45th year. My mother's maiden name was Fang. I have no brothers. I married in the first month of the present year. As I had nothing to do at home, I left my home on the 18th of February and went by land to Cheng-chia K'ou, and came on by a relation's boat to Tien-tsin, where I gain my living as a sailor. Up to this time I was not acquainted with Wang-san of the Ho-Lou, (one of the Roman Catholic buildings is indicated,) but on the 13th June he drugged me and carried me off to the Roman Catholic church at Ho-Lou. I was not allowed to go into the inner rooms, nor did I see any foreigner. I went, indeed, only to the threshold. Wang San urged me to become a Catholic. I at first refused. Wang San said he would have my life. This put me in a great fright, and I then consented. He gave four dollars to a man named T'ang, to keep for me. On the 14th he gave me a packet containing a stupefying drug, and told me to go all over the country and kidnap men by means of this drug. The drug was a fine powder wrapped up in a paper. I went to Mu-chang-tzu, and there met a man of about 20 years of age, and wearing a light blue coat and trowsers. I put some of the drug in the palm of my hand and rubbed it on his face. He became quite silly and followed me, and I hurried back to the Roman Catholic church, and handed him over into Wang San's keeping. For this Wang San paid me five dollars, and gave me another packet of the drug, which I took to Tao-hua-ssu village, where I saw the individual Li-So drawing water. I stupefied him with the powder, and he followed me in the same way as the first man had done. But I was caught by some of the villagers and brought before the magistrate. There are seven other men in the Roman Catholic church besides myself who were engaged in kidnapping. Every evening we slept inside the barrier in the church. Wang San was our chief. Every morning he brought out some powders from the inner room and gave one to each man, as well as 300 cash to buy food with. If we did not succeed in drugging any one before the evening, we gave back the powders to Wang San. Of the other seven engaged in this work, I know Wang San and Wang Ush are natives of I-chow-ch'eng; Liu Hsias, and Lin Ha, and Linuh natives of Tu Kou-i, in the district of Ch'ing-nou. The other man's name I do not know.

Wang San is about twenty years old; has a fair complexion, slightly marked with the small-pox. After I had been drugged by Wang San and carried off to the church, he gave me an antidote, which I drank and immediately recovered my senses. Wang San then told me that when such nostrums have been used, some sweet grass, a cicadas shell, and a certain insect should be dried before the fire and ground to powder, and then worked up with oil of sesame. A draught of the hot decoction of this will bring people round at once. Yesterday, when I was caught in Tao-Nua-ssu village, the people asked me what to do, and I told them to give Li-So this antidote, and said he would recover after drinking it. The five dollars I received for kidnapping the man from Mu-chang-tzu I concealed in the belt of my trowsers, but when I was seized at Tao-hua-ssu I lost them. When I was living in the Roman Catholic establishment, every day before I went out Wang San gave me a red-colored powder to take as snuff. After a pinch of it I felt very brave, and thought of nothing but kidnapping people. When I returned in the evening, Wang San gave a draught of medicine as an antidote, which brought me to my senses, but by that time the gates were shut and I could not get out.

The following is Consul Fontanier's letter:

Our little town of Tien-tsin, generally so quiet, has been troubled for several days by shouting and mobs in the neighborhood of the establishment of the Sisters of Mercy, and of the consulate. The sisters were accused of tearing out children's eyes. Those who were more bold exhumed the dead that came from their hospital. Finally the tantai came and presented to me the depositions of several witnesses, declaring that they had been victims of the kidnappers employed by our missionaries.* I had no trouble in proving to him that all these reports were the work of ill-will, but the tantai having come officially. I promised him, at his reiterated demand, that I would watch that our Sisters of Mercy should not, for the future, employ any but persons of proved good character.

Some hours after, the che-hsien came to the consulate, accompanied by a delegate from Chung How, with the intention of bringing about, on the spot, an official search at the domicile of the Sisters and of the Lazarist missionaries. But as he was so ill-advised as to become angry, and even to threaten me with the anger of the populace, wishing apparently to exact from me that which his superiors had left entirely to my judgment, I profited by his conduct to terminate the interview, reminding him that it was only with the commissioner for the three northern ports that I intended to continue this matter, but that I made him none the less responsible for the consequences of the troubles with which he seemed to threaten me, for I was confident that he alone was the instigator of them.

I requested the delegate of Chung How to inform his excellency of the result of my interview with the Che-hsien, until I should myself go to complain to him of the improper conduct of this magistrate. I had the satisfaction of receiving next morning a visit from Chung How. He spoke very ill to me of the Che-hsien, trying all the time to exculpate him. He complained of the little consideration given to his observations by the local authorities, when he had attempted to deny the false reports spread against our missionaries, having at last been obliged to let them take a step in which he refused to join, which again gained for him the epithet of "the right arm of the Europeans."

This little incident, which might have taken a bad turn but for the intervention of Chung How, appears to-day to be almost at an end, Chung How having besides promised me to publish, in the course of a few days, a small proclamation to allay the excitement.

Chung How's second letter is as follows:

"I presume that your excellencies have already had under consideration my letter of the 19th instant, reporting on the kidnapping at Tein-tsin, the implication of the Roman Catholic establishments by these proceedings, and the threatening rumors which were abroad.

On June 20, I went to Monsieur Fontanier, and begged him to come to my yamen, that we might together examine the kidnapper, and so ascertain the truth or the falsehood of the rumors which were abroad. To this Monsieur Fontanier responded that the Roman Catholics had been guilty of no practices of the sort, and that he had no jurisdiction. I then asked Monsieur Fontanier to at once send for Pere Chevrier, that I might myself examine him, informing him at the same time that unless this matter was sifted to the bottom, and the Roman Catholics proved clearly to be guiltless, it would be impossible to quiet the suspicions of the people, which were then so determinedly aroused. Pere Chevrier, who had been sent for, and Monsieur Fontanier, begged that the intendant, prefect, and magistrate would go to the Roman Catholic establishment and see for themselves. With a view to subsequent proceedings, I ac-

* The use of the word kidnappers by the translator is not justified by the text; the actual expression is, "*recruteurs de petits enfants*."

cordingly proposed to send those officers with the prisoner, Wu-lan-chen, on the 21st instant, to the cathedral, that he might point out the localities alluded to in his statement, and, if possible, identify from among the Chinese of the establishment his acquaintance and confederate, Wang-san, and the others. Pere Chevrier perfectly consented, and the arrangement was concluded then and there. Accordingly, at 10 o'clock to-day the intendant, Chou, the prefect, Chang, and the magistrate, Lin, took the man Wa-lan-chen to the French cathedral, where they met Pere Chevrier, who was very civil and respectful. The prisoner was directed to proceed to and point out the places he had visited. It was then found that the mat-shed and barrier-gate mentioned in his evidence did not exist on the premises, and that he could point out nothing to support the truth of his statements. As for the man Wang-San, and the others implicated by the prisoner, he could not identify any one of them. The officers brought the man back to my yamen, and informed me of the results of their investigation. By and by Pere Chevrier came to the yamen to consult as to certain measures to be taken for the future. We agreed that henceforth all deaths occurring at the hospital should be reported to the officials, who would examine the bodies and see them buried; also that a return should be sent in of the pupils in their schools, and of the children, male and female, supported by them; and, to disarm suspicion, that no opposition should be made to the officials examining their establishments at any time they wished. After taking leave of Pere Chevrier, I was in the act of drawing up a proclamation, which I was anxious to get out at once in order to dispel the suspicions of the people and quiet the minds of foreigners and Chinese, when, at 2 o'clock, I suddenly heard that a disturbance had arisen between some people belonging to the cathedral and a crowd of idlers. I sent a military officer to suppress them, when I heard that Monsieur Fontanier had come to the yamen. On going out to meet him I saw that the consul, whose demeanor was furious, had two pistols in his belt, and that a foreigner, who accompanied him, was armed with a sword. They rushed toward me, and as soon as Monsieur Fontanier came up to me he began talking in an indecorous manner, drew a pistol from his belt, and fired it in my presence. The shot, fortunately, did not take effect and he was seized. I could not accept Monsieur Fontanier's challenge, and so withdrew.

On entering the room he began to break up the cups and other articles on the tables, keeping up, at the same time, an incessant storm of abuse. I went out again to see him, and told him that the crowd had a very threatening aspect; that as the entire fire brigade was with him, evidently intending to assist, I was afraid of a disturbance, and advised him not to go outside. He, however, reckless of his life, rushed out of the yamen. I sent some men after him to escort him on his way. Monsieur Fontanier met the magistrate Liu, who was endeavoring to control the mob, and who tried to keep him back, but he fired at this officer, hitting one of his servants. The mob, enraged at this outrageous conduct on the part of the consul, at once pursued, surrounded, and killed him. They then set fire to the cathedral, but the fire was put down before it had time to spread. They also destroyed the establishment of the Sisters of Charity and the Protestant chapel inside the city. At this time, while the mob was raging, it was suppressed by me, in conjunction with my colleagues, civil and military, and by a force sent by myself, while I sent information to the consuls to allay their apprehensions, informing them of the steps I had taken. The mob found ten children in the establishment of the Sisters of Charity. The excitement is subsiding. This is a true account of the origin and progress of the disturbance.

This affair arose in the first place from the suspicions and hostility of the people being excited by an idle rumor that the children buried from the hospital have had their eyes and hearts cut out; and, in the second place, from the confession of the kidnapper, Wu-Lan-chen, implicating people belonging to the Roman Catholic establishment. I am memorializing His Majesty on the origin of the disturbances as ascertained, and have ordered the immediate arrest and punishment of the ring-leaders. It is my further duty to acquaint your excellencies at once with all the details of the collision and riot. I beg you will have the goodness to inform the French minister as soon as possible.

Without comment at this point, I will now offer two other statements of the massacre, one from a foreign, the other from a native source. The former appeared in the North China Herald of July 14, 1870, from an "occasional contributor," writing from Tien-tsiu. It is as follows:

"On Tuesday, the 21st June, a Chinese mob, with the connivance of the mandarin, and especially of Chung How, the governor of Tien-tsin, simultaneously attacked the French consulate, the Catholic Church mission, and the hospital of the Sisters of Charity. It was at two o'clock that the assault commenced. The French consul, Monsieur Fontanier, seeing himself menaced and his windows broken by stones, left the consulate in uniform, and insisted on being accompanied by a petty mandarin (who was looking on at the mob without impeding them) to the yamen of Chung How, and there he demanded protection for the consulate, the persons who were resident, and for himself.

He also asked Chung How to protect the Sisters of Charity and their hospital, as he had by that time heard they were in danger. Chung How told him that he could not protect any of the persons whom he had named. Remonstrance took place, and as the French consul had a revolver in his hand that he had brought to defend himself, Chung How got frightened and left the room. The French consul then addressed his demand for protection to another mandarin, and he was answered that nothing could be done to help him. Some altercation took place, when one of the soldiers of the yamen stabbed the French consul in the thigh with a spear, and in that wounded state, with the blood having reddened the whole side of his white linen trousers, the consul went to the door of the yamen, and, holding up the French flag, asked leave to pass. The soldiers and mob seemed awed for a moment, but it was for a moment only. They fell upon the unfortunate consul, pierced him with spears and swords, and, after mutilating him, threw his corpse into the river. It has been said that the consul fired at Chung How, or at one of the mandarins, and that he killed a servant of the yamen; but, fortunately for the cause of truth, a Frenchman named Contres was in the yamen in the next room, where he, too, had fled for protection, and he declares that, up to the last, there was no shot fired, and that he saw the first wound inflicted on the consul by a soldier with a spear. M. Contres also witnessed the consul advance in a bleeding state to the door, and saw the first of the brutal murder. Meanwhile, the mob, after allowing the French consul to go toward the yamen, immediately broke open the consulate, and cruelly murdered Monsieur and Madame Thomassen, and the Abbe Chevrier, and another Catholic priest. M. Thomassen was an attaché to the French legation at Peking, and had only arrived the day previous from France with his newly married and beautiful young bride. It is reported that, in the terrible moment of impending death, M. Thomassen killed several Chinese, in order to defend himself and his wife. The mob, led on by soldiers, then set fire to the consulate and the church of the Catholic mission, and burnt all other inmates who could not escape. Simultaneously with the assault on the French consulate, the mob and soldiery surrounded the hospital of the French Sisters of Charity. Having set fire to a portion of the building, they entered the gates and dragged all the sisters into the street. There they stripped them naked, exposed them to the public gaze, plucked out their eyes, cut off their breasts, ripped them open, dragged out their hearts, and deliberately cut them to pieces, and divided portions of their flesh among the infuriated mob. No European witnessed these outrages on humanity save the poor victims, who, in the presence of each other, passed through the terrible ordeal and perished, without any support in that extreme hour of misery and torment, save their confidence in a merciful God, whose behests they had endeavored to fulfill among a barbarous people at the peril of their lives. Chinese spectators of the bloody scene relate other horrors perpetrated on those innocent ladies that cannot be mentioned. The lady superioress, it is said, was cut in twain while yet alive. God alone and the sisters know all they endured of moral agony and bodily sufferings. Their modesty outraged, their purity defiled, their poor frail frames torn asunder, their blood scattered, and their lives destroyed by savages, whose murderous rage inflicted all these and other outrages amidst a scene of horror that alone would be too terrible to encounter.

No sooner had the mob and the soldiers glutted their thirst for human blood on the sisters, than they burnt the entire hospital. Nearly one hundred orphan children who had been received into the orphanage attached to the hospital perished in the flames. The mutilated members of the dead sisters were thrown into the burning ruins, and thus, together with the little children they were charitably nurturing, was the holocaust complete.

Such a tale of horror would suffice; but more still remains to be told. Mr. N. Protopopoff, a Russian merchant, with his wife, to whom he had been married only two days, were met in the town of Tien-tsin by the same infuriated mob and soldiery, and attacked with spears and swords. Mr. Protopopoff fell almost immediately, and was cruelly murdered. His wife, who was on a spirited horse, fled for her life; but, being repulsed from the road, turned back and attempted to leap an open sewer in the town. She fell with her horse, but, extricating herself, hid for a few minutes in the sewer, until she was dragged out and killed by the mob. The bodies of these two Russians were thrown into the river, and afterwards recovered by their friends. They had been stripped naked and subjected to most barbarous usage.

A French merchant, Monsieur Chalmdiser, hearing that the Sisters of Charity were attacked, tried to get near the hospital to defend them, but he was caught in the street and hacked to pieces. His wife, on hearing of her husband's death, fled to the house of a native Christian and remained there till night, when, disguised in a Chinese dress, she ventured to her house, thinking to see the body of her dead husband. After a fruitless search she endeavored to get back to the Chinese house, but, being discovered by some of Chung Hou's trained troops, she was killed by them in the street.

About fifty Cantonese men, who were suspected of being on intimate terms with Europeans, were murdered during the excitement; and even toward the end of the day some miscreants were prowling about the foreign settlements. One of them was

taken with a loaded pistol, and he confessed that he had been sent to kill some of the Europeans in the customs-service.

From this harrowing recital one turns with a sense of relief to the other narrative of the massacre, to which I have referred as coming from a native source. It purports to be a letter from a Cantonese at Tien-tsin, written for the information of his fellow-provincials residing at Chefoo. It is given at page 73 of the Blue Book :

"For some months past it has been reported about Tien-tsin that the foreigners' Roman Catholic mission, (Tien Chu Tang,) hospital, (Jentsze-tang,) and missionary chapel (Li pai tang) habitually caused native converts to administer drugs to other converts, and to send them out in all directions to kidnap infant children, to be brought to the church to have their eyes and hearts dug out. This has gone on for a long time, and came to the knowledge of the people, and several of the kidnappers had been seized and handed over to the authorities. On being placed on trial they made confessions of their crimes, whereon the district magistrate and the people also became filled with indignation. Some were even recovered from the precincts of the mission buildings. At length, at ten o'clock in the morning of the 21st of June, the prefect and the magistrate of Tien-tsin went in person to the mission buildings for the purpose of laying hold of a head man of the kidnappers, named Wang-san, but did not succeed in apprehending him, and they (the two officials) returned home. The people, however, still remained in assemblage around the mission buildings without dispersing. Some of them threw stones and entered the building, and the gate-keepers were unable to keep them out. The foreigners, therefore, came out with their arms to offer intimidation, but the crowd, notwithstanding, grew greater and greater. Close by the Roman Catholic church was the French consulate, and the French consul, seeing that it was impossible to maintain order, went, with a vice-consul of his, both carrying arms in their hands, to the imperial commissioner's residence. They went in and sought to compel the imperial commissioner himself to go and maintain order, but the imperial commissioner refused to go. The foreigners, hereupon, fired off their pistols, and wounded with a sword an aide-de-camp of the commissioner. The people outside the gate, under the impression that the imperial commissioner was being attacked, raised an outcry and sounded their gongs, whereupon instantly a crowd collected from all quarters. The French consul went outside the gate, and there met the district magistrate, whereupon the foreigners again fired. This aroused still further the anger of the populace, who pursued the consul to the gateway of the mission buildings, where they killed both the consul and the vice-consul.

They next made an entry into the mission buildings, and dealt blows indiscriminately, setting fire to the place at the same time. The mission buildings were burnt down to the ground; and they further proceeded to burn the hospital. At the three places they rescued in all more than two hundred infants belonging to the people, and killed sixteen of the French men and women. They plundered the merchant establishment called the Fu-chang-hong, in Chen-she street, where a Frenchman and his wife were also killed. The people then felt that their indignation was assuaged. Among them were certain evil-disposed persons who wanted to plunder the foreign mercantile establishments, and destroy the foreign settlement, but, fortunately, when preparing to do so, they were prevented by the foreign drilled troops who were mustered for the purpose. Robberies are still being committed, night after night, by evil-disposed persons at the dwellings of the converts. After the affair occurred, the authorities issued proclamations to tranquilize the people and prohibit disturbance and now matters are quieting down into their accustomed state. During the last few days Earl Tseng has been ordered to come to Tien-tsin and inquire into the matter, and a high officer has been sent from Peking to maintain order. At the present moment all the foreigners have retreated to the settlement, where they maintain patrols by day and night unceasingly for their own safety. I accordingly write this for your information, and am only sorry that the disturbance has entirely broken up trade.

It is reiterated in these statements, and in a great mass of evidence which I have examined, that the rumors about the malpractices of the Roman Catholic missionaries became conspicuously current about one month before the massacre. Governor Low heard of the excitement so early as the 5th of June. (Diplomatic Correspondence, 1870, page 356.) This may have had its origin in the active malevolence of some individual or individuals, or in the circumstance that an epidemic occurred in the hospital at this time. (See Governor Low's dispatch above quoted.) I incline to the latter belief, but at a later moment will discuss the question, how far the excitement and the massacre were

brought about by the efforts of individuals. For the moment, it is sufficient to say that circumstances seemed to implicate the 'sisters. They were connected with the establishment from which burials were daily taking place. Their doors were ever closed to the public. They were employing agents to recruit children. They were receiving these even when they were in the last gasps of life. People had visited the cemeteries and found in each of several of the coffins sent by the sisters that two bodies had been interred. They had taken this method to avert the suspicion that was growing up against them. At this moment two persons were arrested and executed on the charge of kidnapping. Then followed proclamations by the magistrates, declaring that children were being kidnapped in all directions, and that their brains, eyes, and hearts were extracted for medicine.

One can imagine that an undefined dread, begot of the belief that horrible deeds were being perpetrated in a mysterious way, fell upon the great city.

At last occurred the arrest of Wu-lan-chen, and his examination. He acknowledged that he was a kidnapper, but claimed that he was an unwilling agent of the Romanists. He had been bewitched, and under continued bewitchment had gone out to bewitch others.

We should dwell a few moments on this strange story. The witness declares that he has been kidnapped by one Wang-San, of the Catholic mission; that under the influence of a drug administered by Wang-Sen he has kidnapped other persons, that Wang-Sen has kidnapped six persons besides himself and used them to prey for others. He speaks with much particularity, describes the drugs, the antidote to the one he was empowered to use, the places where he found his victims, their age and dress, and, as we may infer from Chung How's letter, the rooms in the mission establishment where he was confined at night.

It would be difficult to imagine a tale more likely to excite the populace of a Chinese city. It tallies exactly with the superstitious beliefs that prevail among the Chinese. It was doubtless repeated with aggravations and illustrations drawn from old stories of the malevolence of foreigners. Taken in connection with the existing excitement and the predisposition of the people, it was enough to prepare them to take a dire revenge.

This was the condition of matters when, on the morning of the 21st, the Tautai, prefect and magistrate, in pursuance of the arrangement effected between Chung How and Père Cheverier, went to the cathedral, and were shown over it and the premises attacked; Wu Lan-chen was brought to identify Wang-San, (a person of that name was actually in the service of the missionaries,) but failed to do so. He failed also when asked to point out the apartments which he had spoken of in his evidence. The officials, satisfied with the result of their investigations, reported to Chung How, who was soon joined by the amiable Père Cheverier, and arranged with him that certain precautionary measures should be observed for the future. He then proceeded, as he says, to prepare the proclamation he had promised to issue, and was anxious to get out, but was interrupted by the receipt of information that a disturbance had occurred near the consulate and the cathedral. Soon after, according to Chung How, Monsieur Fontanier appeared. He complained bitterly of the action of the mob, and demanded that his excellency should go with him to put an end to the trouble. Monsieur Fontanier then left the yamen and made his way toward the consulate, but, upon meeting the magistrate of Tien-tsin, fired upon that officer. Chung How claims that this was the signal for the work of destruction and death.

Up to a certain point, Chung How's statement is in perfect accord with Monsieur Fontanier's letter, and thereafter the circumstances blend to support the greater part of what he says. From other sources of information we may fill up gaps in his narrative, and reach a more complete conception of the massacre.

I have heretofore alluded to the evidence of a Frenchman named Coutres. Touching the death of Monsieur Fontanier and his secretary, he made the following statement to Mr. Lay, (Blue Book, page 33:)

As regards the death of the French consul and his secretary, I have examined Monsieur Coutres, a Frenchman, living not far from the French consulate, and he tells me that he heard a great outcry in the morning, and saw the people assembling from every quarter. Their cry was "kill the foreigners," (*not* "kill the sisters.") He ran into the French consulate, found all in confusion, and saw Monsieur Simon leave the yamen (the consulate is probably nearest,) with his writer; the consul had not been able to get his writer to go alone with his dispatch to Chung How.

"Monsieur Coutres went home then, and returning again soon, the Chinese told him that the consul had now gone himself to protest against the outrages. He rushed to the yamen and had much difficulty in getting protection, the officials in the courtyard being those who principally attacked him. He was kept in the yamen all night, and came down with Chung How in the morning. He did not see the French consul killed.

We may suppose that the Chinese, some of them, as we shall see, determined to create trouble, had gathered near the cathedral and consulate, to learn the result of the investigation which was being made; that they were not satisfied when the officials came out empty handed, and that they then began to call out at and revile the people in the two establishments. At this point the consul, becoming alarmed, and seeing the impracticability of dispersing the mob unaided, proceeded to Chung How's yamen for the purpose of asking assistance. Governor Low thinks that he reached the yamen "in a state of excitement bordering upon insanity."*

The fact that the consul was able to leave the house, and that Monsieur Coutres passed to and from it twice is evidence that, up to a moment later than that when the consul started for the imperial commissioner's residence, the crowd had not proceeded to extremes.

I shall not stop to inquire whether Monsieur Fontanier did or did not fire off his pistol in the yamen of Chung How. He may have done so by accident, or in a passion, or with the intention to force Chung How, who, after the fashion of most Chinese officials, was probably in a state of helpless consternation, to go with him and quiet the mob.

And if Monsieur Fontanier discharged his pistol at the magistrate, the same explanations could be offered, or it might be said that he saw death staring him in the face, and used his pistol with a forlorn hope to drive back the surging crowd, or still believing that the magistrate had brought about the trouble, with the intent to die not unavenged upon him.

It would, of course, be interesting to know the exact facts, but they are not indispensably necessary to our knowledge of the massacre in its practical bearings. A study of the whole case leaves strongly upon my mind the conviction that, in all human probability, the outburst would have come in spite of any action the consul could take. He was in those moments a feather driven by the wind.

* Monsieur Fontanier had been interpreter to the French legation at Peking, and it is said was relieved because he had been repeatedly violent at the foreign office. Wan-Saang, one of the most prominent members of the foreign office, was so displeased at the conduct of Monsieur Fontanier that he declared to one of the foreign ministers his unwillingness to allow him to act as interpreter. I have other evidence that the consul was a man of an ungovernable temper.

Nor is it necessary to dwell upon the horrible scenes attending the massacre. The correspondent of the North China Herald, whose report I have quoted, has done this at length. It is sufficient to say that the destruction of life and property was complete, and attended with circumstances of a harrowing nature. I do not, however, find anything in the evidence to support his statement that a large number of Cantonese were killed. The letter of the Cantonese, also quoted, is silent on this point, a fact which raises a strong presumption that none of the writers, fellow provincials, were sacrificed. In the same way I find no evidence that a large number, or indeed any, children perished in the flames of the hospital; and it may be questioned whether the sisters were subjected to all the fiendish cruelties which the correspondent details. The victims of a mob are generally killed red-handed, and the mutilation of their bodies takes place at a later moment.

The statements and opinions which I have thus offered point to a gradual growth of excitement, culminating in the deeds of blood which have been described. But when one learns of such an excitement he naturally suspects that there must have been active malcontents at work, skillfully fanning the growing flame, and afterwards, perhaps, urging on the work of death. In this instance we have seen that Monsieur Fontanier was disposed to implicate the district magistrate as the fomentor of trouble. Count Rochechouart, French minister at Peking, was so satisfied of the guilt of that officer and the prefect that he demanded their execution. Some persons have held that Chung How must have foreseen the result, and, while they are indisposed to believe that he was actively criminal, they think that he cannot be excused from responsibility. There are even those who hold that the massacre was a part of a general scheme which had been elaborated by the government of China for the expulsion of foreigners from the empire.

It now becomes my duty to review the massacre in connection with the questions thus raised. I shall endeavor to do this in a spirit of fairness, not yielding to mere suspicions on the one hand, nor yet refusing to give facts the weight which they deserve. I shall, however, invariably insist that allegations not supported by shown facts must of necessity fall.

I have at hand, fortunately, an argument of an elaborate character, prepared by Messrs. Jonathan Lees and William N. Hall, missionaries at Tien-tsin, and intended to show that the massacre was the result of a conspiracy, in which the officials and gentry of the city were probably concerned. As it is, the only respectable argument of the sort which I have seen, as it is carefully and conscientiously drawn, and is temperate, if not moderate, in its expressions, I will quote it at length, and deal with it section by section. The document was addressed to the British consul at Tien-tsin, and may be found in the Blue Book and in the North China Herald of July 14, 1870.

The first section reads as follows:

I. We beg to remind you that it was well known for some days previous to the massacre that there was a plot of some kind against foreigners; that, although many of the injurious rumors relative to kidnapping, &c., were more immediately connected with French Romanists, the threats held out were by no means directed alone against them; that a fortnight previous to the outbreak, a lady member of one of the Protestant missions was so much alarmed by the gestures and language of the people that she did not dare to visit the city afterward as she had done before; that on the return of Mr. Lees from Peking, on the 13th ultimo, he found the anti-foreign feeling so strong as to have awakened general alarm among the converts of all the Protestant missions; that, on Friday the 12th, Mr. Lees, in the absence of his colleagues, had a long conversation with you upon the subject, and especially with reference to the obnoxious proclamation issued by the Fu, which well-informed natives, even then, confidently pre-

dicted would lead to riots; that you advised Mr. Lees to lodge with you an official complaint relative to this proclamation, and also to apply for a counter-proclamation as a measure of precaution in case the public sentiment should not abate; that the very same day it was found that threats had been uttered with reference to the new hospital premises just purchased by the London mission, and that it was not possible to find workmen courageous enough to undertake the needful repairs; that Mr. Lees accordingly applied for the protective proclamation as before agreed upon, Saturday morning, (the 18th;) that offensive demonstrations were made at the East Gate Chapel of the London mission on Sunday afternoon, (the 19th,) the shout being raised "they are killing a man in here," and a riot averted, probably, only by the cool self-possession and good temper of one or two native Christians; that on the same day stones were taken up, threateningly, as the Reverend Mr. Turnock, Mrs. Turnock, and a friend were returning from a chapel on the east of the river; that Mr. Lees saw you again on the Monday to represent the extreme urgency of the case; and, finally, that on the Tuesday morning we both waited on you for the same purpose, having just received from a number of our most trusted native assistant renewed warning of the imminence of the danger, and the necessity for immediate action."

After having completed a cursory examination of Messrs. Lees and Hall's argument, I shall come back to their statement, that rumors of the existence of a plot against foreigners had been some time in circulation. At the moment I shall proceed to consider the proclamation of the prefect, its bearing and significance. The other statements of Messrs. Lees and Hall offer only confirmation of the already sufficiently well-established fact that the excitement was growing for some time before the massacre, and was widely diffused.

The proclamation of the Fu may be found in the North China Herald of July 22, 1870. It reads:

Whereas, on the eight of the fifth moon, Chang Yang-an, of Yangfung garrison, deposed that he had caught two persons called Chang Shuan and Kuo Kuai, of Li-la-yang, kidnapping children of the district of Ching-Hai by means of drugs and magic; and whereas the two scoundrels, during their examinations, confessed to having employed drugs and incantations to kidnap children, they have already, by our orders, suffered the extreme penalty of the law. From reports which had previously reached us, it appeared that these vagabond wretches, together with others of the same class, were commissioned to kidnap children in all directions for the purpose extracting brains, eyes, and hearts to compound drugs—mutilation of the most barbarous sort. How but by their immediate decapitation could the neighborhood be pacified, or the majesty of law be upheld?

The Che-hsien has also issued a proclamation notifying that the police have received orders to make a general search for the kidnappers. But the city and suburbs of Tientsin have such a dense population, and cover such a large space, that it is feared the kidnappers may evade search and make their way here, and, concealing themselves in some secret spot, watch their opportunity to catch unsuspecting children. Only by vigilance, search, and prompt arrest can we hope to rid ourselves of these malevolent, cruel demons, and restore peace to this locality.

Besides selecting constables of known ability to use their utmost endeavors to apprehend the kidnappers, we issue this proclamation for the information of the public.

The proclamation of the Che-hsien was of similar tenor.

The execution of these men, which, it would seem, was effected by the magistrate, under the orders of the prefect, and the proclamations have a bad look, which does not disappear on closer examination. There is no statement in either proclamation, nor elsewhere in any documents which have fallen under my view, that the magistrate had any further proofs of the guilt of the alleged kidnappers than the allegation of the arresting officer and their own confessions. Chinese officials should know how worthless such proofs are in a time of excitement, and when the criminal is under torture or the threat of it. On the other hand, we find Chung How, according to Monsieur Fontanier, condemning the magistrates in terms which show that he referred to their conduct in causing the execution and the issue of the proclamations; we find Tseng Kwo Fan (Blue Book, page 95) declaring that, "upon inquiry, it has been found that there was no instance, either in or out of the city, of people

who had lost children having lodged a complaint to that effect;" and lastly, we find from the evidence of an intelligent Chinese (Blue Book, page 35) that, after the execution, and before the massacre, "several literary men began to prepare a memorial for presentation to the Fu, asking who these men were, where they came from, whose children they had seized, to whom they had sold the children for the purposes stated, and also demanding why, without first punishing those who had been in the habit of buying them, the officials had killed the men; the gist of the whole being a complaint against the mandarins for having acted upon suspicion."

These facts are damnatory of the magistrates in this sense, they do not establish the existence of a conspiracy against foreigners, but they show that those officials, if not actually fomenting trouble, were countenancing beliefs which were likely to cause an outbreak; that if not actively guilty toward foreigners, they were such time-servers as to be willing to sacrifice two miserable wretches at the demand of an excited populace, without any sufficient warrant of law and fact.

I fear that this Pontius Pilate willingness to sacrifice the innocent, in obedience to a popular outcry, may characterize the Chinese. Unless, indeed, Ma Hsin-ye, the governor general at Nankin, had a better case for the execution of certain alleged kidnappers than is detailed in his dispatch reporting the facts, (*Diplomatic Correspondence*, 1870, page 366,) I fear that he must be set down as a time-server. That he had no animus against foreigners, or, if he had, that he thought it unwise to yield to it, is indicated by the fact that he succeeded in putting down an excitement which existed at the moment in Nankin, and in which foreigners were greatly endangered. A few weeks later the governor general died by the hand of an assassin, under circumstances which have never been cleared up. Is it impossible that some sufferer by the action of the governor general sought and obtained vengeance in this way? Upon Tseng Kewo Fan, a man whose character is in many respects admirable, rests the responsibility of having issued the general authority to deal with kidnappers by martial law, under which the regular course of procedure was suspended at Tien-tsin, and the execution of the two alleged kidnappers rendered possible.

Messrs. Lees and Hall go on to say:

II. We beg to say that the facts brought out in the evidence we have already had the honor to place in your hands prove that, whatever may now be said, the animosity of the mob, with rare exceptions, was far from being directed against the French alone. This is shown:

1. By the indiscriminate and consecutive destruction of all the Protestant chapels, eight in number, including the extensive premises of the American board, this destruction being as great as the bitterest rage could make it.
2. By the careful inquiry made for the missionaries, both at the chapels and at the London Mission Hospital.
3. By the ill treatment of many of our converts, all of whom seemed to have been marked men, and to have been persecuted, beaten, and plundered accordingly, while no less than eight or ten of the more well-to-do among them have had their houses pulled down and been robbed of all they possessed.
4. By the inability of the appeal made by unfortunate Russian victims on the ground of English nationality; and,
5. By the loudly expressed resolution of the mob, after they had completed their horrid work at the hospital of the Sisters of Charity, to come down to the settlement and burn the hongs, (mercantile establishments.)

There can be no doubt that the mob, after their blood was up, were ready to proceed against persons of any nationality, and especially against foreign religionists. But all the circumstances observed in our consideration of the subject lead to the supposition that its animus was originally directed against the Romanists. This supposition is

strengthened by the fact that while red-handed they spared several who were Russians so fortunate as to establish the fact that they were Russians, and not French.

Messrs. Lees and Hall then proceed to say :

III. We dare not conceal our conviction that these deplorable events have had official recognition, even if they have not had official authority. This conviction rests upon the following among other grounds :

1. The popular excitement must of course have been well known to the authorities, yet no steps were taken to quell it.

2. On the contrary the proclamations issued by the Fu and Hien, of which complaint was made before the massacre, were of the most incendiary character.

3. The presentation to the Fu, upon the issue of these proclamations, of testimonials consisting of a complimentary umbrella and a tablet with the inscription : " The peoples' living Buddha," and his acceptance of these, (so reported the testimonials have been seen by trustworthy natives.)

4. No notice was taken of your application for the issue of a counter-proclamation. protective of life and property.

5. The rioters have notoriously claimed openly the sympathy and approval of all the local officials, except his excellency Chung How, who from his supposed complicity with foreigners has become the object of intense popular hatred, being nicknamed " foreigner " and " Romanist," and has had his proclamation insultingly defaced.

6. The language and conduct of the Chên-tai, as reported among the people.

7. The fact that, at least in some instances, as for examples in the demolition of the premises of the American Mission, and in several threatened attacks upon the London Mission Hospital, soldiers were the prominent actors.

8. The various fire-guilds and volunteer organizations all have as their heads literary men, whose names are enrolled in the yamêns, and it is impossible to believe that these men would venture to take an active part in a movement which they knew was opposed to the wishes of the officials.

9. Up to the present date, a fortnight after the riot, there is no reason to believe that one serious effort has been made to seize and punish any of the murderers, although a large number of foreign disciplined troops are in the pay of the Mandarins.

The first and second of these allegations are of course well taken, but they lose force when we remember the fact that, although Monsieur Fontanier, through the priests and their converts, and Mr. Lay, through the missionaries and their converts, should have been equally well informed as the native officials, they did not think it necessary to take action ; the first until urged by the magistrates, the second until so late a moment as the day before the massacre ; and that Monsieur Fontanier on the very morning of the massacre speaks slightly of the trouble, while Mr. Lay writes at the same moment, (Blue Book, page 21,) that he has " no fear of actual danger to life."

The third allegation is not significant, because it is indefinite, and the evidence upon the point equally so. In the absence of exact information it will be simply just to suppose that the people offered the testimonials believing that the Fu had well served the cause of law and order, while he declined them fearing to further countenance the excitement.

Touching the fourth allegation, it is to be said that the application for a counter-proclamation was not made until the day before the massacre, and that the magistrates had been several days preparing, in a practical way, to issue such.

The fifth allegation if quite correct ; does no more than raise a presumption against the magistrates and in favor of Chung How.

The person named in the sixth allegation, the Chên-tai, is a military officer having command of police. The evidence shows that this officer has been confused with one Chên Kwo-jai. This man was formerly a rebel, and was rewarded for his change of allegiance with the title of Ti-tu, or General. He is a turbulent fellow, who leads a disreputable life, and wherever he goes fomented hatred of foreigners. Some accounts indicate that he had been several weeks in Tien-tsin when the

massacre occurred, but the better opinion is that he had only just reached there. To him is charged the closing of the bridge of boats, the opening of which, so as to prevent the passage of the mob toward the hospital and the foreign settlement, is credited indifferently to Chung How and to the district magistrate. He is also said to have used cries calculated to urge on the mob in their work of destruction. So far as I can judge, his guilt would not imply that of the local officers.

The seventh and eighth allegations are destitute of force, unless it can be shown that the soldiers, the members of the fire-guilds, and of the volunteer organizations, went into the massacre by companies and with their leaders. This is not the case, although it is true that in the first moments of the outbreak the fire-gongs and the gongs at the police-offices were beaten. But they appear to have been sounded, not as a signal for the outbreak, but in consequence of it.

The ninth allegation refers to the delay in the arrest of persons who took part in the massacre. I shall have occasion to deal with this point at a later moment.

Messrs. Lees and Hall proceed again, as follows:

IV. The share taken by the literati in these atrocities may be inferred:

1. From the positive admission made by one of their number to a native, whose evidence you already have, that some days before the riot a deputation of this class waited upon the mandarin in charge of the Wen Hsue, and presented a paper to him having reference to the rumors.

2. From the fact that the proclamations of the magistrates and the general closure of the schools, which added so much to the excitement, soon followed.

3. From the internal connection existing between the literati and the fire-guilds and volunteer companies, consequent upon those bodies having graduates at their head, it being inconceivable that these organizations could act with such evident unity of purpose unless their leaders had so willed, and equally inconceivable that their leaders would have ventured upon such action unless they had known that their literary brethren generally sympathized with them.

The evidence does not show whether the paper mentioned in the first of these allegations called for, or was calculated to effect, the issue of the proclamations and the closure of the schools. For all we know, it may have been the memorial touching the execution of the alleged kidnappers mentioned in an earlier part of this dispatch.

Touching the third allegation, I remark again, that, so far as I can learn, the members of the fire-guilds and the volunteer companies did not turn out until after the outbreak had occurred.

The class of the Literati of China embraces all persons who have succeeded in passing one or more of the government examinations. There are no lawyers in the empire; priests are seldom graduates, medical men almost never. Then it happens that students, as a rule, have no end in view but to obtain official employment. All civil officers are graduates and belong to the literary class, but when the literati are spoken of, those not in office are generally meant. Foreigners are, I find, universally suspicious of the literati. They believe that they are active in stirring up among the masses dislike of the foreigner and in planning outbreaks. If badly-disposed, their superior intelligence, their ability to write, their hold upon the officials and the government, and their general standing and influence in the empire, would render them an element of a dangerous character.

So far as the evidence shows, we might rest in the conclusion that the literati were free from blame. I am not prepared to believe that this was the case. There is too much reason to believe that the literati are not free from the superstitions which enthrall the masses, and that they are bitterly opposed to foreign intercourse. But I confess that I experienced a sense of satisfaction when I completed the perusal of the

argument under review, having found no more direct and telling predictions against them than the three just quoted.

It is with the literary class, speaking generally, that we must expect to find the studious proclivities of the Chinese and their broadest intellectual development. As a consequence, we must expect that the members of that class will be first among the Chinese to appreciate the learning and morals of the West, our attainments in the sciences and the practical arts. There ought to be, therefore, no repelling of the literati with cold suspicion. The missionaries may set diplomatists a lesson in this respect. Profiting by the lessons of the past, they have at last dropped the universal battle which they formerly waged against the literati, and are now using the structure which Chinese sages have raised in order to build upon it the more exalted edifice of Christianity.

The ensuing section of the argument under review is forcible:

V. Not less important are the evidences continually accumulating that the entire affair was no sudden outbreak, but deliberately planned. Among these we may name:

1. The mob was summoned to its bloody work by the gongs of the fire-guilds, and when the principal acts of violence were accomplished, the guilds were in like manner ordered to disperse by the usual recall.

2. On the sounding of the fire-gongs, in place of the members of these guilds seizing their fire-buckets, &c., as would usually be the case on the giving of such a signal, there was a universal rush to arms, and spears, swords, and sticks were everywhere seen.

3. It is known that on the Tuesday and Monday previous to the massacre the guilds were assembled in various districts, and especially upon the east of the river, in eager debate, and threats loud and bitter were uttered that all foreigners should be slain.

4. Several foreigners were expressly warned, in one or two cases the statement having been made of the form in which the riot was to break out, viz: the burning of the French cathedral and hospital. As you may remember, you yourself informed us of this rumor early on Tuesday morning. A still more curious indication of the popular knowledge of the plot is afforded by the experience of an English gentleman living near the hospital, who was astonished to find, on Monday evening, that his landlord, who lived next door, had suddenly bricked up a communication formerly existing between the two houses, and which was intended for use in case of fire.

5. A catechist, belonging to the London Mission, who had been spending some time in the country, returned on the evening of Thursday, the 24d June. Mr. Lees saw him on Friday morning. He reported that at Hsing-chi, a market town on the Grand canal, about 200 li from Tien-tsin, he had been arrested by the people, who told him that there were proclamations out at Tsang-chên, which spoke of trouble with foreigners at Tien-tsin, and required the people to bring all suspected Romanists to the yaméns for examination, as being concerned in kidnapping. The man got away through the intervention of friendly shopkeepers in the neighborhood; but the incident is suggestive, as it is hard to see how news of events of Tuesday could have reached this district the succeeding day.

6. Yet more to the purpose, and especially when taken together with the above, is the evidence already in your possession, that in a district of Shantung, distant only 180 li from Chi-nan-fu, and at least five days' ordinary travel from Tien-tsin, there was a statement current among the people in the middle of the week, that there was to be an attack upon foreigners at Tien-tsin on the 23d and the 26th of the native month. It is remarkable not only that the attack was spoken of as to be made, but also that the story made no distinction of nationalities; and, moreover, that two dates were given, with the assertion that on the 23d (June 21st) those in the city were to be murdered, while the 26th was to be the fatal day upon the settlement. And here we may be permitted to suggest the question whether the knowledge of such an arrangement, supposing it to have existed, may not have had more to do with the escape of the settlement on the Tuesday than the reported official influence, and also to remind you that during the whole of Friday heavy rain fell.

The first of these allegations is a repetition of a statement already several times put forward. I repeat that it is not supported by the evidence, and that, in my opinion, the collision came first, the sounding of gongs, &c., at a later moment.

The pertinency of the second allegation, for aught that we have yet seen, rests upon our conclusion as to the first. If the gongs sounded before the collision, the fact that the members of the various organiza-

tions seized arms and not the appropriate instruments or insignia of their crafts would be evidence that they were moving to a preconcerted slaughter; but if the gongs were sounded after the collision, the fact of a collision with foreigners would have become known, and would, in view of the temper of the people, explain why they rushed to arms.

To the third allegation we may give ready credence. The evidence on which it is based (Blue Book, page 105) indicates that for a few days before the massacre the threats against foreigners were frequent and outspoken.

The fourth and fifth allegations are more positive in form. The supporting evidence has, however, not become available to me.

The sixth allegation is positive and perfectly supported by the evidence. It is contained in a memorandum from the pen of Mr. Hall, and may be found at page 106 of the Blue Book.

The Reverend N. B. Hodge has been residing for some weeks at Chu-Chiatsai, in the northeastern part of the province of Shantung. In a letter received from him a few days ago, and dated June 26, I find the following paragraph:

We had heard, not only from Tien-tsin friends, but likewise through widely circulated rumors in this district, that there was no small disturbance in Tien-tsin, owing to the damaging reports in circulation concerning Roman Catholics. On Friday last Hu returned from San Lin-chia, and heard that on the 23d of the Chinese month (last Tuesday) there was to be a grand struggle with the foreigners, to be succeeded by a second on the 26th, (Friday.)

With regard to the foregoing extract from Mr. Hodge's letter, I would remark that the man, Mr. Hodge's informant, is one of our native assistants, and is considered to be a cautious, reliable person. San Lin-chia, the place where he heard the rumor which he reported to Mr. Hodge, is a large village, situated in the northeastern portion of the province of Shan-tung, and distant from Chi-nan-fu about 160 li. We regard it five days' journey from Tien-tsin, by rapid traveling, and long stages; I suppose it might be reached in four days. He could leave this place early on Friday morning, in order to join Mr. Hodge at Chu-Chia on that day. This leaves only two days between the tragical occurrences at Tien-tsin, on the Tuesday, and Hu's departure from San Lin-chia on the Friday. It is thus all but impossible that the news of the actual events at Tien-tsin on Tuesday could have arrived at San Lin-chia before Hu's departure on Friday. Moreover, the tenor of Mr. Hodge's letter is, that the struggle with the foreigners was spoken of not as an accomplished fact, but as an event which was expected to transpire in virtue of some premeditated and publicly announced scheme. This fact, taken in connection with other similar intimations from widely-separated points, seems to possess considerable significance.

Two other witnesses, Chinese resident at Tien-tsin, speak of having heard that on the 21st of June there would be a massacre of foreigners. Their evidence may be found on pages 112 and 113 of the Blue Book.

I am satisfied that, prior to the 21st of June, an effort was made at Tien-tsin to bring about a massacre on that date. I believe this, because just such efforts are made in China, from time to time, now at one point, now at another, and because the evidence leads us to the conclusion.

The fact that the massacre occurred on the proposed day, raises a strong presumption that it was brought about by the conspirators.

Days for the extermination of this or that community of foreigners, as I have said, have been frequently fixed upon in China. The missionaries resident at Tung Chow, a city on the Gulf of Pechili, have been specially aimed at in this way; but in each case the day has passed by safely, as with demonstrations falling short of those threatened.

This fact should make us hesitate to believe that these rumors have their foundation in positive and practical undertakings to the end. They are often circulated to frighten foreigners, doubtless often with a malicious intent. They have so frequently failed to come true that, up to the moment of the massacre, those prevalent at Tien-tsin were generally laughed at by foreigners, as little credence has been given to those from time to time put in circulation at other points.

In the examination which I have made of the circumstances of the massacre, down to this point, I have found no evidence of a positive character to show that it resulted in consequence of a preconceived arrangement. Let me now question the probabilities in regard to the evidence of Mr. Hodge, and of the two Chinese witnesses resident at Tien-tsin, by whom the report which reached him is confirmed.

Mr. Hodge's residence was five days distant from Tien-tsin. Peking is two days from Tien-tsin. So far as is known, no rumors of a proposed massacre reached the capital. None reached Che-foo, New Chwang, or Shanghai. Everywhere it was known that there was more or less excitement existing among the Tien-tsinese, but nothing to show a conspiracy.

Evidence in regard to the massacre has flowed in from many diverse and distant sources. From Mr. Hodge and from the two Chinese witnesses only have we evidence of a conspiracy. Their statements are, that before the massacre they learned that foreigners at Tien-tsin were to be murdered on the Tuesday. Is it probable that a conspiracy, the aim of which had become known before the massacre, should not be clearly exposed when, after the massacre, eager attention is directed to all the facts?

While disposed to reject the conclusion that the massacre was deliberately planned and executed, that it was a second St. Bartholomew's, I am not disposed to say that the men who sought to bring it about did not precipitate the event. Given a populace in a fever-heat of excitement, given a congregation of their number such as that which occurred in front of the cathedral and consulate, given exasperating circumstances such as the failure of the mandarins to find the man against whom the anger of the mob was so thoroughly aroused, and the closed gates of the establishments, and a slight accident might bring about disaster. The cries of a fanatic, the throwing of a stone, the surging of the crowd, one error of temper or of judgment, might bring about the fray. To give this last *coup de grace*, and even to have somewhat prepared the events which led up to it, may very well have been the work of the would-be conspirators.

My conclusion, then, is, that the massacre may have been premeditated in certain quarters, and may have been precipitated in consequence of the efforts of badly-disposed persons, but was not preconceived in a general way. Such a conspiracy as may have existed is not a salient feature of the massacre. It can be elevated to no higher place than a leading incident. I speak always in view of the evidence. But of course further information might change my opinion.

I have dwelt at length on Messrs. Lees and Hall's memorandum, a document which was intended to be suggestive only, because, as I have said, I consider it the most forcible exposition which has fallen under my eyes, of the views of those who are disposed to see in the massacre proof that the official and literary classes in China, and perhaps the government, are bitterly hostile to foreigners, and constantly endeavoring to do them harm. It was due to the Department to deferentially consider these views, and I may say that it was due also to those in China who have not time to sift facts for themselves.

I can now review the case in order to state "*the special circumstances of an exciting character, which were present and active at Tien-tsin.*"

If I am not mistaken these were—

1. An epidemic and numerous deaths among the children in the hospital of the Sisters of Charity.
2. The burial of several children—two in a coffin.

3. Rumors of kidnapping and the mutilation of bodies, strengthened by the facts that the Sisters received and recruited children, and that many of them had died, but more by the time-serving, perhaps malicious, action of the magistrates in executing two alleged kidnappers and in putting out proclamations likely to direct suspicion to foreigners.

4. The evidence of Wu-Lan-Chên, which directly charged upon the Roman Catholics the malpractices already credited to them.

5. The failure of the officials to see the drift of the excitement, or if they saw it to take action at an early moment.

6. The examination of the Romanists' cathedral and attached premises, on the morning of the day of the massacre. This brought together an excited crowd, and prepared matters for an outbreak.

7. The efforts of persons disposed to make trouble.

It has been my intention to consider further the measures taken by the foreign ministers and the government, in consequence of the massacre. But my dispatch has reached unusual length, and I am warned by the fact to desist from further writing. I shall, therefore, close it with the following remarks:

We have seen that there are various forcible reasons why the Chinese distrust and dislike foreigners.

We have seen that their intellectual condition is low, and that they believe, in a superstitious way, that foreigners are given to various horrible practices.

We conclude that the general conditions existing at Tien-tsin prior to the massacre may be repeated elsewhere in the empire, and that other massacres may be expected.

I so far rest in this conclusion that I advise caution and the use of precautionary measures. A strong effort should be made through the government at Peking to disprove the false stories about foreigners which are so prevalent among the people. The excitements among the people, which recur summer after summer, should be met and combated promptly and vigorously. A considerable naval force should be maintained in Chinese waters. It should be authorized to strike in defense of any foreign community when attacked, or if necessary to avert an attack.

All this is likely to be done. The communities, their representatives, and the several governments know the Chinese to-day better than they did two years ago. They will take great care that another outbreak shall not occur.

Moreover, the efforts of the government of China and of its officials will be put forward in the cause of peace. The dynasty is Tartar. It has only a forlorn following of its nationals. It holds the throne by a slight tenure. It wants no controversy with foreign states. It has discovered that it may draw strength from the presence of foreigners, and that if opposed unjustly they may cause its downfall.

We are less sure of the support of the officials. But the temper of the government is likely to be the index of theirs. Chinese officials are, as a rule, the veriest time-servers in the world. If the government requires them to keep the peace under penalty of disgrace, they will look well to the allotted task. The Tien-tsin officials have escaped easily, but their fate will still be a warning to others.

The people, low as they are in the intellectual grade, prone to superstitions, saturated with stories of the malevolence of foreigners, are yet what all the world in a general way believes them to be, industrious, peaceful, easily governed. While I write, information comes to me of the usual summer-time plots against foreigners. They come not unex-

pected, but the expectation remains that each returning summer will find the practical observing Chinaman more accustomed to foreigners, and more unwilling to accept unquestioned the stories against them. One difficulty is the vast extent and population of the empire.

I have said that it was my intention to consider the measures taken by the Chinese government in consequence of the massacre.

Under ordinary circumstances the examination of this part of the case would have been most instructive. But I am persuaded that the more useful part of my task has now been completed. There was no open trial of the offenders. We have no minutes of the evidence adduced. We could do no more under these circumstances than state what redress has been granted, and conjecture whether it was determined in a fair and candid way.

I have the honor, &c.,

GEORGE F. SEWARD.

No. 42.

*Mr. Bailey to Mr. Davis.**

No. 24.]

UNITED STATES CONSULATE,
Hong-Kong, April 7, 1871. (Received May 22.)

SIR: I have the honor to forward you the within inclosure, (No. 1,) containing an elaborate and remarkable decision just delivered by Chief Justice Smale of the Supreme Court of this colony, in a *habeas corpus* case involving the legality of the Macao coolie trade.

I have said the decision is remarkable, and it is, first, because in effect it declares that ships employed in the Macao trade are engaged in piracy; second, that such ships are slave-ships engaged in the slave trade.

The chief justice takes very high ground, very bold, and, of course, many contend very dangerous. The decision speaks for itself, is complete in itself, and therefore it is not proper that I should enlarge on it in this dispatch. I will say, however, that the whole coolie trade of China, at Macao, Hong-Kong, and elsewhere is so full of fraud and all sorts of iniquity as to make necessary some such startling decision to arouse Western civilization to a sense of its duty concerning this new and infamous slave trade.

If Great Britain sustains the decision of Chief Justice Smale, the Macao coolie trade, with all its enormities, will be at an end; but as this traffic is exceedingly profitable, and getting money is the dominant passion, at least in this part of the world, it will only shift its base, and re-open under color of a new authority and disguised with a front of more seeming decency. Already I am informed negotiations are pending for the establishment of extensive barracoons at Canton, and the opening of the coolie trade at that port under the auspices of the Chinese government.

In the latter event nothing can be hoped for better than at Macao, but on the contrary, the most painful anticipations arise of a system far worse than Portuguese ingenuity has been able to devise.

I have the honor, &c.,

D. H. BAILEY.

* This correspondence from the consul at Hong-Kong is printed here, the subject to which it relates belonging to China.

[From the Hong-Kong Daily Press.—Supplement of Wednesday, April 5, 1871.]

RENDITION OF CHINESE.

The following decision by Chief Justice Smale on the return of the *habeas corpus*, on which Kwok-a-sing was brought before him, involved several important questions as to the general law of rendition of Chinese criminals, upon the requisition of China, by Hong-Kong, and on the legal character of the Macao coolie trade and the right of coolies carried on coolie ships to regain their liberty, even by violence and bloodshed.

This decision is of so much general interest and importance that it is considered desirable to reprint it at length for home readers. The text has been submitted to the Chief Justice and may be taken as accurate.

SUPREME COURT, HONG-KONG, MARCH 25TH, 1871.—JUDGE CHAMBERS BEFORE THE HON. CHIEF JUSTICE SMALE, IN THE MATTER OF KWOK-A-SING ON HABEAS CORPUS—JUDGMENT.

Immediately after the argument upon the return to the *habeas corpus* of Kwok-a-sing, I had no doubt as to my decision on the main questions raised, but some of the points suggested were to me so new, and the broad questions which it was my duty to consider were of such great importance, and my views as to them were so much opposed to what I had reason to believe to be the opinion of persons entitled to very great respect from me, that I have thought over the matter till my health has, more than once, become unequal to the occasion, and delays unavoidably arose. Moreover, calls on my time and attention on other judicial matters have intervened, so that I have been often disturbed in giving continuous attention to the case as a whole. I do not, however, feel myself justified in longer delaying giving my decision; as to the correctness of which I can suggest to myself no ground for doubt. I now therefore proceed to express my views on the points which have arisen in and out of the argument, and to give my decision on the whole case. I regret that it must be at great length. In the first place I will shortly state the proceedings.

Grant of and return to writ of habeas corpus of Kwok-a-sing.—During the February close of vacation of the supreme court and its offices, Mr. Francis, as attorney of Kwok-a-sing, applied to me, at my chambers, on the 7th of that month, upon an affidavit by his client, for a writ of *habeas corpus*, which I granted in the common form, requiring Mr. Douglas, superintendent of the gaol, to bring before me the body of Kwok-a-sing. This writ was at once obeyed. Mr. Douglas set out the cause of the prisoner's detention in his return to the writ, which was, shortly, the production of the copy of a warrant of commitment in execution, dated the 13th of January, 1871, under the hand of Mr. May, first police magistrate, whereby reciting that a communication had been received requiring the prisoner's rendition on behalf of the Chinese government, as an offender against the laws of China by participating in the murder of a portion of the crew on board the *Nouvelle Penelope*; and after finding "that there is cause to believe" the prisoner's guilt on the ship, by killing the captain and some of the crew at sea, and other crimes afterward, viz, seizing a boat belonging to the said ship, and landing in Chinese territory, the warrant stated an adjudication by the magistrate that the prisoner should be committed to a gaol for detention, pending the receipt of orders from H. E. the lieutenant governor as to his further disposal.

Return by magistrate of depositions to writ of certiorari.—On Mr. Francis's application I, on the following day, issued a writ of certiorari, addressed to Mr. May, committing magistrate, and on the 11th of February, by his return to that writ, Mr. May brought before me the "minutes of proceedings in the cause in which Wong Ahee, barber, is complainant, and Kwok-a-sing, (24,) of Ponyu, coolie, is defendant." These proceedings extended from the 19th of January until the 7th of February last, on which day the above commitment was made out.

Absence of proper charge on the proceedings against the prisoner.—The first paragraph immediately following this heading bears internal evidence that it could have been written only after all the depositions had been taken; indeed, Mr. May, by an affidavit filed yesterday, deposed that it had been in fact copied from and written in after the committal, i. e., on the 7th of February. Not therefore attending to this paragraph, (it formed, as I think, no part of the proceedings,) it appears that Kwok-a-sing was first placed at the bar at the magistracy on the 19th of January, charged "as a suspicious character, and as a person dangerous to the peace and good order of the colony," under ordinance No. 9 of 1857; but no attempt was made to prove an act or word within the colony by the prisoner so as to bring him in the remotest way within either the words or within the spirit of that ordinance. That ordinance was passed in times of great political alarm here, as a means of getting rid of Chinamen of whom many were at that date presumed to be lurking about the colony, emissaries of the then hostile mandarins, on the merest suspicion of any evil design. The reason for the law has ceased, and the less frequently the police now invoke its enactments and the more

stringent the proof to bring any person within that ordinance required by the magistrate, the more constitutional will the course of justice be in this colony.

No charge of murder against the prisoner.—The prisoner was thus irregularly charged at the magistracy for an offense as to which no evidence was tendered. I do not, on looking through the proceedings before the magistrate, find that this prisoner was charged with anything as the subject-matter of complaint to which he had to or could plead or answer, beyond the unsustained charge of being a "suspicious character and a dangerous person." The evidence goes to prove acts of violence and of killing the captain and eight of the crew in the ship, and the observations of Mr. Francis, addressed to the magistrate, were in reference to such evidence, but from beginning to end I see on the proceedings no "charge" of murder or of robbery, properly called a charge, against the prisoner, to which he could plead.

Absence of regular authority to initiate proceedings.—Again, attached to the depositions is a letter from the colonial secretary dated the 3d of February, 1871, addressed to Mr. May, but there is no note on the proceedings referring to it or showing that it was ever taken judicial notice of by Mr. May, or that the prisoner or Mr. Francis, his attorney, even knew that such a letter had ever been received by Mr. May, much less that it was to be treated as the foundation of Mr. May's authority to act.

The argument on claim of prisoner's discharge.—Mr. Francis's argument before me occupied some days of February last. He reduced to writing the heads of his arguments. The honorable and learned attorney general, who appeared for the Crown, and opposed the prisoner's discharge, answered the points raised by Mr. Francis, and furnished me with a printed copy of his arguments. Mr. Francis replied, and he furnished to me a written copy of that reply. I have seldom heard arguments more clear than those by which the contention on each side was sustained. Having been carefully epitomized, these arguments speak for themselves. The points were divided into seven by Mr. Francis. The attorney general has followed that division, and for the sake of convenience I will consider the case in the same order.

FIRST POINT.—Right of rendition to China is the only question.—Mr. Francis says that he made this point merely to clear the matter of all grounds of charge against the prisoner other than those arising out of ordinance No. 2 of 1850, which provides for the rendition of Chinese offenders. The attorney general did not suggest that the prisoner could be detained on any ground other than No. 2 of 1850. I am, as I have before said, of opinion that there is no other charge against him capable of being argued.

SECOND POINT.—Was No. 2 of 1850 ultra vires the legislative council.—The second point taken for the prisoner, viz: That ordinance No. 2 of 1850 is null and void, as being *ultra vires* of the colonial legislature, is very difficult to be disposed of. It is not denied by Mr. Francis that this ordinance has been acted on from 1850 to the present time, a period of more than 20 years. But he showed that no length of use will give validity to a local enactment if originally *ultra vires*; and if, in the opinion of the supreme judicial authority within the locality, the ordinance appears to have been originally *ultra vires*, it is bound so to decide. This proposition follows from Chalmers' Cases and Opinions, p. 402, and is ably sustained in Mr. Anstey's pamphlet on the competency of colonial legislatures, 1869, at pp. 2-25. It is my duty, therefore, to consider this objection. It at first seemed to me that on constitutional principle the Imperial Parliament alone has authority to give effect to treaties within the empire. This view seems confirmed by Mr. Forsyth, (Cases and Opinions, p. 269.) I thought it followed that it was not within the powers of a Hong-Kong legislature, which consists wholly of nominees of the Crown, to give such sanction, even within its own limits, without such previous imperial legislative sanction of the treaty, and also that such an ordinance was not, reading the charter strictly, required for either "the peace," or the "order," or the "good government of this colony;" which I read as meaning "within, and only within, this colony." If this had been the only colony in which such an ordinance had been passed, this view of the case would have weighed very strongly with me. The research of the attorney general, however, shows that the ordinance No. 2 of 1850 is but one of a number of colonial extradition enactments, and although the terms of the charter of each colony cannot be ascertained, I cannot refuse my assent to this, that some of them, at least, are similar to the Hong-Kong charter, and I cannot take upon myself to decide that so very general a practice is contrary to law, especially considering the contention of the attorney general, that the fact of there being valid colonial enactments as to extradition is recognized, if not in terms, by the strongest implication, in 28 and 29 Vic., c. 63, sec. 18.

THIRD POINT.—Treaty of 1843 abrogated, therefore No. 2 of 1850 void.—Mr. Francis's third contention is that the ordinance No. 2 of 1850 has become inoperative by reason that one of the two treaties, that of Nanking, made in August, 1842, and that of the Bogue, made in October, 1843, that is to say, the latter treaty, was "abrogated" by the second article of the treaty of Tien-tsin, of 25th June, 1858, while the first treaty, i. e. of Nanking, was "renewed." It is a fact of which I must take judicial notice, that there was after the treaty of the Bogue of 1843, war between Great Britain and China,

extending over a considerable time, and that such war of itself suspended these two treaties in force at the date of ordinance No. 2 of 1850, so that for a long time, and up to the treaty of Tien-tsin of 1858, there was in effect no treaty between Great Britain and China to which the ordinance No. 2 of 1850 did, or could, apply. It cannot be contended that during that period the ordinance No. 2 of 1850 was or could be operative, or that when the treaty of the Bogue of 1843 was afterward, by mutual consent and by express compact, "abrogated" which confirmed its previous suspension by war, that it was ever "renewed," which means not a resuscitation, but a beginning de novo. I read somewhere in the parliamentary paper 393, (1868,) report on extradition, an opinion of one of the witnesses that each extradition enactment ceased with the treaties in reference to which it was enacted, but I cannot now find the reference to the passage. It is clear to me that such must have been the general opinion entertained as the proper view, for it is embodied in the extradition act of 1870, sec. 2., par. 2, that every order which is to be in place of an enactment to be made under that act shall not remain in force for any longer period than the arrangement with the foreign state. It is clearly now intended that on a treaty ceasing to be in force the provisions for rendition under it are to cease. It seems to me that there must always have been the like intendment in English law, and that this construction must be adopted as to the ordinance No. 2 of 1850, and that its operation ceased when the treaty of the Bogue was first suspended and then absolutely abrogated, and that it required a new ordinance to carry the entirely new arrangement of 1858 (which differed very much in detail from the Bogue treaty) into effect. I think I must here assume that the maxim *cessante ratione cessat ipsa lex*, Broomes L. M., 160, applies to this ordinance—this law. The argument of the attorney general assumes there was only one treaty in existence in 1850. I am of opinion that there were then in fact two treaties. The first of these treaties was signed in 1842, for China, by four commissioners, and the second treaty was signed a year afterward by one Chinese commissioner only. R. v. Wideman, on the French treaty, 3 Bar Rep., 719, (1866,) cited by the attorney general, differs in this, that there one party, France, gave a notice to England with a view to terminating an existing treaty at a defined time, and that by agreement that notice was actually withdrawn and was extended, and, beyond question, the identical treaty was in force, and therefore the act of Parliament continued to give effect to it. But Lord Chancellor Cranworth, in his judgment, appears to me by his line of argument to admit that if the ultimate time of notice for determining the treaty had expired, and if the treaty had terminated, the act to put that treaty in force in reference to any future treaty could not have been revived except by re-enactment. Lord Cranworth appears to have thought a new act of Parliament would have been required to work it out, but in the present case a reference to and comparison of Article 9 of the Bogue treaty of 1843, and with Article 21 of the Tien-tsin treaty of 1858, shows a difference of detail, not merely abrogation and re-enactment, even which alone Lord Cranworth appears to have thought enough to require a new act of Parliament. The attorney general suggested that No. 7 of 1864, par. 84, implicitly declares No. 2 of 1850 to be still in force, being contained in a new edition of the ordinances stamped with the seal of the colony. The words are, "the copies so stamped shall in all courts and upon all occasions whatsoever be taken, deemed, and held to be the only lawful ordinances of Hong-Kong, as they existed at the date of the passing of the last ordinance inserted therein." I read these words as merely excluding all necessity of reference to ordinances not inserted, and as in no way a re-enactment of all the inserted ordinances, and it certainly does not affect to give the included ordinances a force which they had not immediately before the date of the enactment in 1864. I do not say that even this limited construction should be adopted, because it might possibly lead to very alarming consequences, to which it is unnecessary for me here further to allude. I cannot adopt this suggestion as a ground for upholding No. 2 of 1850. It is clear to me that the principles and provisions of the extradition act of last sessions are such that if the treaty of 1858 were now for the first time to be carried into effect by order in council under that act, the provisions would be very different from those of No. 2 of 1850.

FOURTH POINT.—*No rendition, because crime charged is piracy and justiciable here.*—Mr. Francis contends that the offense for which the prisoner stands committed is piracy on the high seas, and that such piracy is not within the treaty or the ordinance No. 2 of 1850, because it is justiciable here. The arguments by which Mr. Francis justifies this point appear to me to be convincing so far as they go. But the attorney general with great ingenuity subdivides this point into three, and Mr. Francis has answered these distinctions. I leave the arguments as I find them; it would lead me into far too great length to criticise them. I shall merely state that my conclusion is that the opinions of Sirs J. Harding, F. Thesiger, and Fitzroy Kelly were manifestly come to in reference to a case in which the Chinese charged with murders were designated "emigrants"—free emigrants—not containing any suggested element of compulsion or original coercion of them, which distinguishes that case from the present, and further that it appears to me the decision in *re Ternan*, 9 Cox, C. C., 522, and 33 Law J. M., C. 201, and

the observations of the judges in that case, are inconsistent with that opinion. I must follow the decision in *re Terran*, especially as the principle appears to have been approved of in America—see *re J. C. Bennett*, 11 L. Times, 485—and say in this case as was said in that, the crime, “if anything,” is piracy, and being justiciable here if there be any crime, there is no ground for giving up the man. It is beyond doubt that political criminals are not to be given up, though within the letter of the treaty, neither is a Chinese subject to be given up if justiciable here, *e. g.*, for piracy. Again, a culprit, to adopt the line of argument used by Shee, J., 33 L. J. M., C. 216, cannot be said to come within the terms of the treaty or of the ordinance in which the preamble confines the enactment to such as have “taken refuge” here; he being justiciable here, he cannot be said “to take refuge” in a place which is no “refuge” to him, and he is not, therefore, within the treaty of Tien-tsin, the only existing treaty, even if that treaty is provided for by No. 2 of 1850. I shall subsequently consider fully whether this man’s act was a crime at all. In *Naylor v. Palmer*, 10 Ex. Rep., 338, S. C. 22, L. J. Ex., 329, the case of seizure by 360 coolies of the *Victoria*, on her voyage from Macao to Callao in Peru, and another case, *Kleinworth v. Sheppard*, 28 L. J. Q. B., 147, the case of seizure by 350 coolies of the *Henriette Marie* on a voyage from Macao to Havana, each case turning on the construction of marine insurance policies, the courts held between insurer and insured, that the acts of revolt and taking the ships by Chinese emigrants constituted piracy.

FIFTH POINT.—*Nothing authorizing the magistrate to act.*—This point is that there was nothing to give the magistrate jurisdiction. The attorney general contends that a requisition of rendition might be verbal merely. But section 1 of No. 2 of 1850 requires the information of the Chinese officers to be made or forwarded to the magistrate or court. This may possibly, but not probably, mean that the Chinese officer is at liberty without writing in person to prefer the information to the court acting magisterially in the matter, but I am of opinion that if he does not do that, it means that the information must be “forwarded,” which is consistent only with the sending on of some material thing which here is a written information. I conclude that the information must be, if the officer does not attend in person, by a writing by himself, and that the identical writing must be forwarded in such way as that it should reach the court exercising jurisdiction in the case, which is the magistrate only. Now this condition was not complied with; it does not appear that any Chinese officer ever made any requisition at all, much less that any one such officer did so in writing, so that it could be forwarded. The colonial secretary, in his letter of February 3, states that the British consul at Canton did what he had no authority to do, what the Chinese officer alone had authority to do. Therefore the whole proceeding before Mr. May was unauthorized and of no force in law. The attorney general refers to a dispatch from the colonial office in 1865, which states that a British consul should either be the medium of or sanction all applications by the Chinese officials making it, but that dispatch does not substitute the British consul, still less the colonial secretary, for that Chinese official. The dispatch did not, and could not, alter any enactment. As a lawyer, I thought the letter of the colonial secretary of the 3d of February last, even if that were the proper document to initiate Mr. May’s proceeding, too meager, as the only statement of the charge giving jurisdiction to the magistrate to proceed against this man, and as the foundation of a proceeding in which in the words of the treaty, “upon proof of guilt,” (proof only in this colony,) this man was to be given up. I desired to obtain out of the colonial office for several purposes the proceedings on former renditions, but for reasons thought sufficient in that office the production was declined. I had thought that the form employed by the colonial secretary might have been justified by precedent. The colonial secretary might, not being a lawyer, have reasonably thought the terms of his letter sufficient, especially if it were according to precedent; and if I could have found in the precedents that such form had been usually adopted, it might possibly have justified its adoption in this case. I stated in court my inability to obtain these important precedents from the government office, whereupon Mr. Francis produced to me the parliamentary paper, House of Commons papers, (1835,) No. 120, relating to the rendition and execution of Mo-Wang. On perusing these papers I see at p. 7 that the precedent there was an information against Mo-Wang by the acting Chinese governor of the Two Kwang provinces, in form equal to, if not exceeding in length and particularity of times, place, crime, and circumstances, an indictment in an English court of justice, addressed to the acting governor of Hong-Kong, accompanied by a long letter of requisition addressed to the British consul at Canton, both being duly forwarded by the same British consul to the then acting governor here, whereon the police magistrate acted. This precedent confirms, so far as the only precedent I can obtain can do so, my conviction that the absence of such particularity by a Chinese official is fatal to Mr. May’s jurisdiction in this case. This conclusion is confirmed by authority. In the case of Geëk, a German woman, whose rendition was claimed for murder, the honorable C. Cushing, the Attorney General for the United States, took a like objection to the requisition in that case, as insufficient for vagueness. Forsyth, C. & O., 351. Having in February last after argument reserved my decision, which

was delayed for the reasons I have stated, I, on the 22d and 28th of March instant, heard a summons issued at the instance of the prosecution, whereby the prisoner was required to show cause why the warrant of committal and return to the writ of *habeas corpus* should not be amended upon an affidavit filed by Mr. May, by inserting therein the words "forwarded to me" in the place of "received." On the hearing of this summons, I said I thought it right that a statement made to me on a previous hearing by Mr. May should appear upon the proceedings, and on behalf of the prisoner Mr. Francis filed an affidavit, made in consequence of that suggestion, by Mr. May, to the effect that the paragraph containing the charge of murder, &c., at the commencement of the proceedings next after the statement of the names of the parties, to which I have before referred, was not written on the depositions until after the committal had been signed by him. I am of opinion that I ought not to entertain this application, because it comes too late, and moreover, because if it had been made earlier, it appears from Mr. May's affidavit of the 28th of March that there was nothing in the proceedings on which the commitment could be corrected. Moreover, I am of opinion that the letter of Mr. Robertson is not a due requisition by the Chinese authorities under the treaty, nor a complaint by a Chinese official duly "made or forwarded" within the ordinance No. 2 of 1850. However, the application to amend is before me, and the prosecution may have from another tribunal a decision differing from that to which I have come on this point. Mr. Francis objects that section 4 of No. 2 of 1850 rendered a warrant from the governor to the magistrate necessary, to give jurisdiction to the latter. I am of opinion that if due requisition had been forwarded to Mr. May, no such warrant would have been necessary. This fifth point being directed to the jurisdiction of the magistrate, I think I may more conveniently than under any other head here allude to a point of practice in the exercise of his jurisdiction which occurs to me.

I. *Evidence must be sufficient to justify a "true bill."*—A point arises out of an extract from a dispatch, No. 40, of 11th April, 1863, from his grace the then colonial secretary, which was handed to me by the attorney general, in which, on the assumption that there was some competent jurisdiction here to carry out the treaty of 1858, his grace says, in an extract from a dispatch, (I asked for, but I did not get the whole dispatch, as explanatory by the context of the extract.) "It is at the same time quite clear, on the letter of the Tien-tsin treaty, that it is only on proof of their guilt that Chinese criminals can be demanded;" and adding, "on this head I have to instruct you that as a general rule reasonable evidence ought to be accepted as sufficient," (none other is required on trial for murder in any British court,) "such for example as would lead a grand jury in this country to find a true bill, where the evidence is *ex parte* only." Now, I stop here because in this case the evidence was *ex parte* only. Adopting as our guide these instructions from the colonial office, Mr. May's finding is, that "there is cause to believe that the said defendant is a subject of China, and that he has committed the said crime against the laws of China." This finding does not even express what Mr. May actually believed, it is not equivalent to a "true bill" by a grand jury, which, according to the high authority of his grace, the then colonial secretary, it ought to be to bring this man within the rendition treaty. Now, here the man was charged with murder, and with murder only, in the only document before Mr. May, the letter of the colonial secretary of 3d of February, 1871, (if it can be said to have been before him,) it was not competent for Mr. May, the magistrate, assuming this letter to be a sufficient charge as to murder to inquire or to commit for larceny, as not being within the alleged claim of rendition confined to the charge of murder, the magistrate does not find that the man is guilty of murder, as the conviction in his mind as a grand juror, or that the charge of murder is true, which is the meaning of a "true bill." According to Chitty, (1 Criminal Law, 317.) "the grand jury ought not to find a true bill, unless they are convinced of the guilt of the defendant?" For this he cites abundant authority and references to considerations of humanity, far more cogent, as applied to Chinese subjects resident in this colony, than to English-accused persons in England. Now, here Mr. May does not, and he could not upon the evidence before him, express a finding equivalent to a "true bill," he ought therefore to have discharged this prisoner. Moreover, a grand jury could find a "true bill" only for the crime charged, that is murder, and not for any less or other crime, (*Id.*, p. 325.)

II. *Special reason for term in treaty of "upon proof of guilt."*—I cannot but think that his grace, the then colonial secretary, if his consideration had been directed to the special reasons for the terms of the treaty, "upon proof of guilt," (an expression which, as it was admitted by the attorney general, is not to be found in any other treaty,) would have seen a conclusive reason why this country assumed, as to alleged Chinese fugitives from justice here, the right to ascertain the absolute guilt of such fugitives as fully as this country, in fact, assumed that China could not be trusted as a nation to do justice within her own territories. It was assumed by Great Britain that it was necessary for her to deny the common international right of exclusive sovereignty to the Emperor of China to judge foreigners, being English subjects within his own territory, and we so far superseded, for our protection, his

imperial rights, even in China. I hold that, not trusting China to administer justice, even in China, but creating a (British) imperium in (a Chinese) imperio in China, the intent and meaning of the clause "upon proof of guilt," a clause which the attorney general could not find in any other treaty, in the treaty of 1858, had emphatically this special meaning, that we were not to render up a Chinese subject, to whom on his sojourn here Great Britain owed protection, per Turner L. J., in *Low vs. Routledge*, L. R., (1 Chan. App., p. 42,) without our having ourselves judiciously ascertained the guilt of the man accused, and demanded as fully as upon a trial by a jury, which tribunal convicts on evidence, which amounts to "on proof of guilt," and on no higher evidence than these words import the guilt so ascertained can only be of the identical crime charged, and of no other.

III. *Was No. 2 of 1850 defective?*—I must as shortly as possible allude to another difficulty, which occurs to me as to the jurisdiction of the magistrate in this case. The ninth article of the "abrogated" treaty of the Bogue of 1843, contained in two branches, two conditions on which a Chinese subject was to be given up. The second branch provided for rendition in case of a Chinese demanding "on proof of guilt." It would seem that the draughtsman of No. 2 of 1850 overlooked and made no provision for this clause, but that he gave his whole attention to and provided only for the most prominent, the first branch in the clause in the treaty, and he then adopted provisions for a form of procedure applicable only to treaties between European nations, such, for instance, as in 6 and 7 Vic., cap. 75 and 76, where provision is made for rendition on merely a prima facie case, and not "upon proof of guilt." Now the first branch of article nine of the abrogated treaty of 1843 not having been included in the substituted article in the treaty of Tien-tsin, the clause in the ordinance appears to be inapplicable to that new treaty, because it does not, after providing for the mere preliminary inquiry before the magistrate, provide a tribunal for the actual trial, either in the supreme court or by constituting the executive council a court for the purpose, where there may be "a proof of guilt" against the accused. I hope that the intended revision of our treaty with China as to rendition, and a consequent legislation will, not destroying due protection to Chinese in Hong-Kong, provide better for the objects contemplated, as we are led to hope from Mr. Holland's evidence in Par. Papers, H. of C., No. 393, (1868.)

SIXTH POINT. *Is the offense as it is charged, if proved, an offense against the laws of China?*—This point suggests that the offense charged is not an offense against the laws of China. The offense, if any charge, is murder. I am clearly of opinion that the crime, if any, charge being murder, the prisoner, if an Englishman, would by English statute law in force in this colony have been triable here, according to the case of *R. vs. Azzopardi*, 2 Moore C. C., 283, (see 1 Russell on Crimes, p. 730,) cited by the attorney general, and as I must for all purposes on this hearing (that the contrary not being proved) hold that the laws of China are the same as the laws here, I must hold that this objection would fail if the charge had been properly preferred, which I think it has not been, therefore Mr. Francis fails on this point.

Right to rendition is confined to crimes committed within the country demanding it.—Involved, however, in this point, is the fact proved beyond question that the crime "charged" was an act committed on the high seas, and also on board what is said to be a French ship. This opens another objection to this demand of rendition by China. I readily follow the very high English, the highest individual authority in England, which lays down broadly that "the country demanding the criminal must be the country in which the crime is committed." 1 Phil. Inter. Law, p. 403. If this be good law, as I must hold it to be, and if the opinion given in Alsop's case, *Forsyth C. & O.*, 363, and if the opinion of Cushing, attorney general, was properly adopted and acted on in the United States in David's case, *ib.* 331, then China cannot have in this case the right to demand rendition, because the crime, murder, for which rendition is said to be claimed, was committed at sea and not in China. Assume what is not, (but which ought to be proved, *R. vs. Bjarnsen*, 10 Cox, c. c. 74,) that this was a French ship, should a claim for the rendition of this man, by France, be acceded to? The same very high authority would say "No, the usual course is to refuse the request of both applicants." 1 Phil. I. L., p. 414.

SEVENTH POINT.—*The depositions disclose no offense whatever.*—Mr. Francis contends that the depositions disclose no offense whatever, assuming for this purpose that on all his other points he has failed. He wisely left it for the attorney general to prove the affirmative, to show what offense if any this man had committed, that onus being on the accuser. The attorney general selected portions of the depositions, which if true clearly showed that the prisoner was active in the China coolie rising, and that he took part in the fight in which the captain and eight of the crew were killed. This fact is, as I assume, not denied by Mr. Francis, but he adopts very pertinently the well-known rule of evidence in criminal cases that the hypothesis of delinquency must be consistent with all the facts proved. He suggests that the inference from the evidence, all tainted more or less by coercion on the Chinese witnesses (one manifestly with the sword suspended over his neck) by animosity in the French seamen, is that all these

coolies were in fact under coercion, amounting to unjustifiable and entirely illegal imprisonment, that they all had, according to English law, the right to regain their inalienable personal liberty as much as if it were to save their lives, and that they did no more. In the absence of proof that *any* other law prevailed, I must, as before said, assume for the purposes of this decision that the law of this colony must be applied; it is to try the questions before me as if the ship were an English ship of this colony, carrying these coolies on the high seas; and for the purpose of this point I also assume that these depositions returned by Mr. May comprise all the evidence, however much I may suspect that further evidence might have been, and whatever further evidence I may think, on so *serious* a charge as murder, ought to have been produced for the prosecution in reference to this man. I hold that the prisoner was beyond question under unlawful coercion, assuming, as I must and do assume, the law on board the *Nouvelle Penelope* to be the same as the English law here is, and on the authority of the *Felicidade*, Den. C. C., reserved, vol. 1, pp. 104-154, referred to and commented on in 1 Phil. Int. Law, 333-334, it is to me clear that according to English law a man under unlawful restraint of his personal liberty at sea, as well as on shore, has a right to take life to free himself from such constraint on his personal liberty; and further, on the authority before cited, to use his masters' or captors' property necessary to effect his object, that object being in itself not only a lawful but a laudable object. This would seem to be the first law of nature, the right of self-preservation, of liberty equally with life, which is fully sustained by text-books and cases. Anderson's case is this, that even if in a slave State where slavery is lawful, a slave kills any man in that State who endeavors to prevent his gaining liberty by flying into Canada, in Canada, and in every court of judicature under the imperial Crown, such slaying is not murder, and such a man is not to be given up, on demand by the State in which the killing occurred. See Anderson's case, Forsyth C. & O., 373; see also Mr. Hammond's squestion, 243, evidence, H. of C. Papers 1853, No. 393. Neither is it a crime to take a horse to aid this escape of a slave; see Forsyth, C. & O., p. 370. The case of the Creole is almost identical with the present; though demanded, the slaves were not given up; see 1 Phil. Int. Law, 333-34. The 1st volume Russell on Crime abounds with cases tending to prove these propositions. It is clear from the evidence that this prisoner and the coolies were being taken forcibly against their wills (there is certainly no evidence of consent by the prisoner) to a destination they desired *not to go to*; this is manifest in the depositions; from the wailings of some of the coolies; from the declaration by others, to the number of 100, that they had been kidnapped; from the marching the coolies on board under an escort of soldiers at Macao as if they had been convicts, and by the acts of desperation by two of the coolies, who jumped overboard to put an end to their miserable lives, successful (may I not say happily successful) in one case. I hold that this coercion, enforced as it was by cannon planted, and raking the coolies' dens, and by grape-shot in reserve against these coolies, was a crime irrespective of the acts to abolish slavery. Again, the law quoted from Mr. Justice Forster in 1 Russell, p. 295, is thus stated: A man may repel force in defence of his person, habitation, or property, against one who manifestly intends and endeavors by violence or surprise to commit a known felony upon either, and the very exception mentioned by Forster, "this rule does not apply to any crime unaccompanied with force, as picking pockets," points the rule as including such force and coercion as were here applied.

An English grand jury would find "No bill."—Upon these facts I naturally ask myself what would be the finding of an English grand jury against this prisoner Kwok-Asing. A passage in the life of Sir T. Powell Buxton, an English grand juror, illustrates this matter. The firmness of purpose of that broad-minded philanthropist and eminent man to move in the House of Commons in support of the emancipation of the slaves, was severely tried by a suggestion that it would occasion a slave insurrection in the West Indies. And now comes his estimate of the value of personal liberty, and his notion of the right of the enslaved man to assert his liberty. "If," said he, (p. 107,) "a servile war should break out, and 50,000 perish, how should I like that?" He met this extreme supposition thus: "If I had two sons I would rather choose to have one free and one dead, than both living enslaved." These words show that he would as a grand juror have found no bill against this prisoner. That was said in the reign of George the IV. There were grand jurors in that reign who differed from him, but A. D. 1871, I believe that every grand jury in England would find "No bill" against this man on the depositions, and upon like reasoning. For myself, I must say, that however horrible was the scene of contest and the carnage on board the *Nouvelle Penelope*, the depositions disclose such acts of enslavement and of illegal coercion on the part of the captain and his agents, all the testimony being *ex parte* out of the mouths of the coerced or hostile witnesses for the prosecution, as show that there was no violence or robbery beyond what was absolutely necessary to regain liberty, and that this prisoner, Kwok-Asing, was guilty of no offense cognizable by English law. If I had to charge a grand jury as judge, I should so lay down the law, and if I were a grand juror myself I should upon an indictment for either murder, manslaughter, or robbery, find "No bill" against this man.

Conclusion in law that prisoner ought to go free.—I have now disposed of the seven points raised by Mr. Francis, against which the attorney general has most strenuously and ably argued; but both facts and law appear to be in the main against his contention. Without again specially referring to all the points, I must now, apart from all moral and political considerations, and after discussing and confining myself to dry legal questions merely as such, conclude that as to the seventh point, as I must hold Mr. Francis' contention sustained; and that as to some or one of his other six points, and of the other points suggested by me, the decision must be in favor of the prisoner, and it is enough in law if he succeeds on any one point. Mr. Francis has established to my mind clearly the right of his client, Kwok-Asing, to an order by this court for his discharge from the custody in which he now is. Upon the depositions I hold him free from all charge of crime on board the *Nouvelle Penelope*.

Was the Nouvelle Penelope a slave-ship?—I have long and most anxiously hesitated whether this case calls on me to do more than decide the dry legal questions on which I have given my opinion, considering that merely for my judicial decision in the present case, such further inquiry is not absolutely necessary; but I feel that any judicial consideration of the subject on a review of my decision would be incomplete if attention were not directed to the consideration of the six questions which I hastily sketched out, and at the end of the argument desired to be discussed before me. The attorney general, as he had a perfect right to do, declined to offer any observations on them. The ground taken by him (in which I do not concur) was that the questions were raised on supposititious facts, of which he said there was no evidence upon the depositions. I propose to examine the depositions and to see whether the foundation of facts is so merely ideal as it seemed to him to be. I am also clearly of opinion that it is my duty to open up every question as to the Macao cooly trade which may tend to exculpate or inculpate either the prisoner and the coolies on the one hand, or the captain and crew of the ship on the other. The following are the six questions which I put:

THE FIRST QUESTION.—*In case the Nouvelle Penelope had been a British ship carrying these coolies on the high seas under the circumstances proved by depositions, would she or would she not have come within the 5 Geo. 4, c. 113, and would or would not the captain under that act have been subject to suffer death, "as pirates, felons, and robbers upon the seas ought to suffer," up to 1 Vict., c. 91, when the penalty was lessened to transportation for a period of not less than fifteen years?*

This question is expressly confined by its terms to the facts disclosed in evidence ("under the circumstances proved by the depositions.") In the argument it was in effect insisted by the attorney general that I must assume that the law on board the ship was the same as the English law. I therefore asked, as I think pertinently, as the attorney general thought unnecessarily, what would the ship as an English ship be according to that law under the provisions of the consolidated slave-trade act, 5 Geo. 4, cap. 113? In the absence of argument on this point I may err, but I must come to such conclusions as I best can. I turn to the light of the interpretation of 6 and 7 Vic. c. 98, sec. 2, as to what persons are slaves, and find that all persons holden, i. e., for the time being, without reference to the length of holding for life or for years, that all persons holden in servitude as pledges for debt, and commonly called "pawns," (in China, "pigs.") or by any other name, are to be considered as slaves within the scope of the slave-trade acts. Again, the legal test of slavery is this: Is the man held at the time within the control, as to his actions, of another or of himself, *jus alieni*, as distinguished from *jus sui*? and I never saw any distinction authoritatively drawn between this status being for life, or for a term of years. How easily would the slave-trade acts have been evaded if "engaging" Africans for years, say twenty or eight years, instead of holding them for life, had been resorted to as a subterfuge. It appears to me that ever since the *jus gentium* there never was a *jus omium gentium*, or, as it is better expressed, *jus inter gentes*, or international law, which originally existed only among nations professing the Christian religion. The taking and keeping of white men as slaves has been held to be "contrary to the rule of immutable justice and eternal right," as forcibly expressed by Sir R. Phillimore in 1 International Law, p. 316 to 318. It seems to me that the slave-trade as confined to negroes was tolerated in Christendom as an exception, and only as an exception to this general rule of prohibition which had imperceptibly grown up, and that it was excused solely on the ground of the alleged low status in the scale of humanity of the black man. That the Chinese come within our definition of the white man is clear, not only from their color, but from their culture as a nation, with a literature studied with respect and profit by the wisest men of Europe, and from the diffusion of education among them, which is probably more general as to reading and writing than in France. Probably a greater percentage of the coolies on board the *Nouvelle Penelope* could read and write than among the like number of conscripts in France in the late war. At the sessions for this month, a legal contract was produced in a criminal case before me, drawn by a cooly, one of the class of men from which these kidnapped coolies are taken, which for propriety and clearness would have been creditable to any man in any station of life in England. Were the prisoner and his fellows not the equals in learning of the crew holding them as slaves? Without fur-

ther preface to this circumstance, the consolidated slave-trade act, 5 Geo. 4, (as explained by subsequent enactments,) by 9th section provides that any subject of England who shall thenceforth upon the high seas knowingly carry or remove, or assist in carrying or removing any person as a slave, or for the purpose of his being brought as a slave into any territory whatsoever, or for the purpose of his being sold as a slave, or who shall detain on board any ship any such person, shall be adjudged guilty of piracy, felony, and robbery, and being convicted thereof shall suffer death "as pirates, felons, and robbers upon the seas ought to suffer," and by section 10, merely to fit out or use a ship for any such purpose is declared felony, with transportation not exceeding fourteen years. There are other sections casting a very large net to catch offenders. I will assume from its general terms that this act prohibits dealing in white Chinamen as slaves as well as Englishmen and the abased African. Now, upon the depositions alone:

1st. Was this a slave-ship?

2d. Were the Chinamen on board slaves according to the true intent and meaning of the statutes?

1st. Was this ship a slaver?—As to the fitting up of this ship, Paul Parrot, one of the crew, states:

"The barrier across the deck, abaft the mainmast, was constructed of strong wood, about four inches square, seven or eight feet high. There were two open-barred doors opening aft in the barrier, and there was a cannon at each door with the muzzle pointed forward. The cannon were not loaded. The coolies were not allowed to go aft of the barrier. There was a sentry at one door during the day, and the doors were closed during the night. The coolies were all below during the night, and one of the crew stationed at the gangway. The coolies were not allowed to come up during the night excepting for necessary purposes. The crew were all berthed aft of the barrier. The ship's arms were in the saloon and captain's cabin. About twelve muskets and bayonets, some swords, and about twenty revolvers. These latter were in the captain's cabin. I know that there was gunpowder on board and some grape-shot. There was no grape shot kept on deck." According to the cases this appears to me to be *prima facie* evidence not rebutted of the fitting up of a slaver.

2d. Were the Chinamen on board slaves?—I assume, as I have before said, that white men, i. e., in this case Chinamen, are within the acts. I collect the evidence of the treatment to which this prisoner and the other coolies were subjected from the depositions. The chief witness, Wong Ahee, for the prosecution, deposed thus, under threats from a kidnapper, whom I consider as an agent for the captain. I expressed to the authorities my willingness to become an emigrant to Peru, but in my heart I was not willing, and I was afraid to say so, because Chea Ahfook (the kidnapper) told me if I did not say I was ready to go, I should be sent to Canton and have my head cut off! We find from the same witness also (p. 2) that three days after they sailed one of the "emigrants"!! jumped overboard and was drowned, and that the chief mate beat some of the coolies for playing at Muntan. This witness further said:

"I was angry with Chea Ahfook for deceiving me. I did not want to go to Peru, but I was forced to go on board ship. When I went on board I was followed by two or three foreigners, and some of those belonging to the 'barracoon.' I mean, I and the party of about thirty coolies that went on board with me. Some of these were willing to go, some were unwilling, some told me that they came willingly, others that they had been kidnapped, and we talked over the matter. Some said that they would have to work eight years, and perhaps would not live to return to their country. I never talked about getting means to free ourselves." Paul Perrot, one of the crew, deposes that while at Macao, and before sailing from Macao for Callao, a cooly jumped overboard and tried to swim to shore, and was picked up and put in irons for an hour; and that on the 3d October, when out of sight of land, one other cooly jumped overboard and was drowned, though a boat was lowered, thus preferring death to the coercion to which he was subjected, and who will blame a choice for which many an European has been enlorged as a hero, in preferring death to slavery. The same witness, one of the crew, describes how the coolies were taken on board, guarded as convicts would be:

"180 coolies were brought on board the first day. They came off in three boats; there were three, four, or five Portuguese soldiers in each boat with muskets and fixed bayonets. All the remainder of the coolies came on board in three or four boats the day before sailing, each boat had some armed soldiers on board. One of those that first came on board was crying, and the same night he jumped overboard, he was picked up out of the water, all the others were quiet, they had freedom to go where they pleased about the ship."

One of the witnesses, Chun Apew, a petty trader of Canton, who, having lost all his capital in gambling, had voluntarily gone to Macao to "emigrate," an example of the easy descent from the gambling table to the barracoon and slave ship, deposed as follows:

"On the 30th September, during the night, the vessel sailed, having 310 coolies on

board. Many of the coolies appeared willing to go, but many others said that they had been kidnapped and were obliged to go. I believe that about one hundred said they had been kidnapped."

Coming as all this evidence does from the witnesses for the prosecution, uncontradicted, I believe, (though the attorney general calls it mere hearsay evidence,) that what they said among themselves when there was nothing to be gained by stating other than the truth, and according to fact. Out of 310 coolies this one man heard, and I believe what he says to be true, that 100 coolies said that they had been kidnapped. How many more of these coolies had been kidnapped does not appear. The attorney general contended that the captain was not answerable for the fact that these coolies were kidnapped. I abstain from attempting to measure his mere moral responsibility: but for the purpose of measuring the alleged guilt of the prisoner, I must consider that the captain, being in a "trade" notorious for its crimes, of kidnapping especially, was *prima facie* in law responsible for the kidnapping and fitting up of the ship, and the detention of the coolies on board, and if the circumstances raise a presumption against the captain that he knew that one only of the coolies on board had been kidnapped, then I think that in an English ship, fitted up as this ship was, he would be guilty of piracy within section 9 of 5 Geo. 4. Again, can I shut my eyes to the passages throughout the depositions, showing that these coolies or many of them had been inmates of and had been taken on board from out of barracoons, not said to be even under government supervision in Macao, that they had been thence marched under military escort to the boats, and accompanied to this ship by soldiers with "muskets and fixed bayonets." The attorney general described this captain as being a French gentleman; he was, then, a man of intelligence. He was for a long time at Macao; he must be taken to know something of the "trade" in which he was engaged, and he must be taken to have known how as prisoners these coolies were escorted on board. He must have known where and as applied to what infamous purpose the word "barracoon" was first used. He must have known that the word has been imported into Macao from Africa, that it indicates a place dedicated to the same infamous purposes as in Africa. He must have known that the word at first meant and still means a building to hold slaves with a view to their deportation, if he did not know the definition in Webster's dictionary, that it is "a slave warehouse, or an inclosure where slaves are quartered."

I now follow these poor wretches to their miserable prison on board the ship, and the witnesses produced for the prosecution, there were no others, describe scenes which one would think must excite universal commiseration and sympathy for the coolies and execration of the "trade," if not of the traders.

"On the 3d of October between twenty and thirty of the coolies who were on the lower deck were crying, and exclaiming they had been kidnapped. A man named Kao-koong-mahn was talking to them. I heard him say, 'Do not cry, my brothers; in two days more we shall go back to China.' From hearing that I suspected that something was intended, but with that exception all was quiet and orderly. There was no disturbance. The same day one of the coolies jumped overboard and was drowned. The coolies had plenty to eat, and the crew of the vessel did not ill use them in any way."

What a scene, twenty or thirty coolies crying and exclaiming they had been kidnapped! Is it to be presumed that the captain so separated himself from what was passing on board that he was in happy ignorance of these lamentations? I think the contrary is the presumption, and seeing where these men were, I assume that the words "kidnapped" men and slaves are synonymous terms, as a matter of intendment and common sense. I believe that no captain of an African slave-ship ever took his miserable victims from the gold coast with more full knowledge of the wrong he was doing to humanity than this captain had from the time he left Macao to the moment of his death—of the slavery, the misery he was inflicting on his live cargo. It is notorious that the cost of the saleable article "man" laid down in Callao is about \$60 and under \$80; the price of this same saleable article "man" in Callao varies from \$350 to \$450; one successful voyage on this average exceeding some \$50,000 profit. These considerations aggravate the crime towards these coolies, and towards this man as one of them, and show that the chief offender in this matter was the captain, and not this man, who costing the captain not \$80 was expected to realize to the captain at least \$350. The conclusion follows that, if this ship had been an English ship, and if the captain had been an Englishman, he would by law be a pirate, and punishable as such. I am yet to find the lawyer who questions the right of any man to effect his own liberty even by killing a pirate, if that be necessary. *Was the suicide by a cooly a murder by the captain?* I merely glance at one other point. One of the coolies, with the only attributable object of ending his distress by death, threw himself from the vessel into the sea. Why? Could he have any other assignable motive than to terminate his illegal imprisonment, and to set himself free by death? Did the illegal coercion of the captain occasion this act? Was it or not the murder of this man? There are cases in the first volume of Russell on the subject, but as the answer is not necessary to my decision of the case before me, I leave it to others to solve this question. I now proceed to consider my

SECOND QUESTION.—*In case this prisoner and the other coolies had valuable property, as was in the case of the Annamites, which the captain had taken from them, and was keeping in his cabin, and was taken, and keeping their persons and their property on the high seas, would or would not the taking the property by the captain have been piracy, or at least such a state of circumstances as would have justified their rising, and, if necessary, killing the captain to regain their property and liberty?*

In it I assumed it to be possible that the attorney general would have answered, and with cogent arguments, the first question in the negative. Without such arguments I have answered it according to my light in the affirmative. The object of this second question was to raise what is the obvious right of a man robbed to recover his property feloniously taken, and kept from him, and assuming the right which appears to me indisputable, to take from the robber by force, and at the risk of life, property *res estimabilis* when it is feloniously withheld. I raised the question, (if that be the right of an owner of property against a robber,) whether a man whose person is stolen, whose liberty *libertas res inestimabilis* is gone, has not the same right to take the life of the robber of his person and liberty in order to recover its absolute possession. To me, in the absence of argument to the contrary, the mere statement of the question answers itself in favor of the prisoner.

THIRD QUESTION.—*Would or would not the coolies on board the Nouvelle Penelope in either case come within the designation of slaves, according to the definition in section 11 of 6 Vic. c. 98?*

Confined as this question is to the evidence in the depositions, there is nothing, as it appears to me, to take the status of the prisoner, Kwok Asing, out of that of slavery.

FOURTH, FIFTH, AND SIXTH QUESTIONS.—No argument having thrown doubt on the preceding questions, it seems to me that I may group the remaining, the 4th, 5th, and 6th questions; they are as follows:

4. *Is there any, and if any, what difference in the status of slavery as dealt with by the statutes collected in 1 Russ., chap. 18, p. 243, ed. 1865, whether that status was originally brought about legally or illegally, by kidnapping or by voluntary consent to go?*

5. *According to English law, can a man by consent become or be a slave, and does his consent affect or not affect his status or the criminality or innocence of the person holding him in slavery?*

6. *Can he contract away his liberty any more than he can contract away his life, and if taking the prisoner's life with his consent (e. g., shooting him) would be murder, would or would not taking his liberty with like consent subject the taker of the liberty to the same penalties as if it had been originally taken by force?*

I will consider them together, and say that it seems to me that a now present status of slavery is as much within the words, as it is within the spirit, of the statutes against the slave-trade, whether such slavery was originally brought about legally or illegally, by kidnapping or by a forced or even by voluntary consent.

The views put forth in this colony compel me to refer to what elsewhere is assumed as axioms. Christianity teaches us that God made man in his own image, and breathed into him the breath of life—eternal life. It does so happen that this Christianity is the law of England, of this colony; and modern European philosophy in its own refined language teaches much the same doctrine of man's equality with man, only (as it assumes) on a rather more subtle hypothesis. Well content as I am, and, as judge, must be with the law of the land, I must answer the question: Is it possible that such a being as man can according to law, a science of development, according to the law of A. D. 1871, become a slave, even by his own consent, I say it is impossible in law, as Sir R. Phillimore, v. 1, p. 316, has said in a passage I read with the most respectful concurrence, but too long for full quotation: "Of this great truth its sound has at last gone out into all lands, and its voice into the ends of the world." A man can no more, as I infer from the same high authority, by contract, be authorized to take the liberty than to take the life of another. The proposition long enunciated by Locke, (who was in almost a minority of one in his time,) a proposition now universally accepted in morals, appears to me to flow from the first principles of English law, as they have been developed at the present time. French law is the same as English law as to the right to personal liberty: "En France quiconque a mis le pied dans ce royaume est gratifié, de la liberté!" 1 Phill. International Law, 341. France and Portugal by treaty with England, bought from Portugal by money, and by their internal laws, have each abolished the slave-trade, and by treaties between all European, and I believe all American nations and England, the slave-trade has been abolished, and I read in Sir R. Phillimore's great work that France has over and over again declared it to be piratical. As yet English and foreign decisions have in most cases, but not universally, refrained from declaring the slave-trade piracy *jure gentium*, *jure inter gentes*; but these decisions were before the universality of these treaties, and when a case shall next raise the question after all recent treaties in the highest court of judicature for solemn decision, may we not expect that by international law, being a law of development, it will be held, that as between all nations who have by treaty declared the slave-trade to be piracy, it has become *jure inter has gentes* piracy? And

has not Portugal, has not France, so declared over and over again, and is it not therefore in reference to these flags internationally piracy?

The Macao coolie slave-trade.—This brings me to the Macao coolie slave-trade. It was so designated by the Right Hon. E. W. Forster, speaking from the opposition benches, and deplored as such by the present Lord Derby, as the then foreign minister, speaking from the ministerial benches in the House of Commons, on the 26th of June, 1868, as I read in the *Times*' report of the following day now before me. These authorities, the utterances by eminently representative men, justify the same designation everywhere by every man under the British crown. I was in hopes from assurances I received at Macao in 1864 that these "atrocities" were at an end, and laboring under the gravest mistake, I in our colonial legislature congratulated this colony on the 30th day of March, 1870, on the event. But this "atrocious" trade has increased of late, and coolies are now taken off just as the coolies on board the *Nouvelle Penelope*, to an estimated average number of 1,000 a month, and are in like manner banished from China, to miserable lingering deaths, chiefly in Peru, where by recent news 2,000 coolies have gone off into the mountains armed, in open revolt. It has been argued before me that because some forms of examination are said to have been gone into in Macao, said to be according to the law of Macao, that such forms said to be created by law in Macao so satisfied some exception to the general prior Portuguese law (the abrogation of which, being contrary to express treaty obligations, would be a *casus belli* against her) as to justify the treating these poor fellows and the holding them piratically as slaves; but at least the general law of Portugal remains applicable unless the terms of the legal, if there be any, exception, is proved, to be and if any such be compatible with treaty and general law. It must also be proved that all the conditions of Macao exemption have been complied with in each particular case. Failure in proof of compliance with any requisite to the exception vitiates the exception, (see Jean Bareant's case, 1 Phill. Inter. Law, 341,) and as regards the slaves on board this ship, no Macao law has been proved. Further, suppose it be proved that all these conditions have been properly complied with, that *omnia rite agi* so as that the contract of slavery was effectual throughout Portuguese territory, would such exception be of any avail outside that territory, or be of any avail in a vessel on the high seas under a French or any flag other than that of Portugal? Can any Macao law prevail and exempt a French or other foreign ship from her own laws, or from national or treaty obligations? My answer is in the negative. The French law prevails—a slave puts his foot on French territory on the deck of a French ship, and he is free, notwithstanding any possible Macao law to the contrary.

The declaration between states that the slave-trade is piracy, is a matter very different from a grant of a right of search to discover and punish extra-territorially the acts so declared piracy. The latter is conceded even by the United States with the greatest difficulty, and only within limited latitudes, even where the former is explicitly made. I draw this distinction because the attorney general cited cases as to right of search in reference to slaves which do not touch, as it appears to me, the question of piracy or no piracy.

I am assured that the coolie slave-trade at Macao is carried on to the great distress of the much-respected governor there, whose efforts have been borne down in this matter possibly by the force of laws existing there, the repeal of which he cannot carry in the Macao council. This is not the only case in which a gigantic evil has been too strong for a governor, but I trust that he will persevere, and gaining strength from the increased greatness of the evil he has to contend with, assisted as I am sure he will be from Portugal, and as I know he will be by the Catholic priesthood, and especially by the Jesuit Fathers in Macao, he will ultimately put down this grievous evil.

Fearful retribution in coolie slave-ships.—But it seems to me that if cause and effect have their full operation, this abominable traffic will find for itself a terrible and appalling end. I have endeavored to make up a list of ships in which there have been coolie risings and destruction of the ship, and the voyages have failed. That list is not complete, but I believe that within a short period some six or seven ships, carrying about 3,000 coolies, have been burnt or otherwise destroyed, with an immense loss of life, including captains and a relatively large proportion of the crews of these slavers. Will men who believe that there is a Providence—will men who hold that storm or tempest, a Nero or a Cataline, mars not Heaven's design, not see a Nemesis in these events?

Origin of claim of rendition of this prisoner.—There can be no doubt that the demand of the rendition of this prisoner originated, not with the Chinese mandarins at Canton, but with the French consul. I should have liked to have seen his original letter. It was referred to in the argument for the Crown as sustaining the Chinese demand, but was not produced. Judicially I must decide as if there were no such letter. Doubtless, the French consul was induced to interfere by listening too readily to the ex parte statements of the coolie slave-traders, who hoped by terrorism to establish firmly their abominable trade. Kidnapping is a crime especially detestable among the Chinese, occasionally atoned for among them by lynch law; mandarin justice usually decapitates or most severely punishes a kidnapper. No mandarin would ask for the rendition of a Chinaman for killing a foreign kidnapper beyond the limits of China.

in order to punish him. National sympathy would rather reward him, but after the Tien-tsin massacre peaceful relations with a French consul would be thought to be cheaply bought by a peace-offering of a few poor and friendless coolies upon his demand.

The execution of sixteen coolies in sight of Macao.—In a paper now before me, I see in the testimony of an eye-witness the narrative of an unparalleled scene. A China gun-boat bringing from Canton sixteen poor Chinese coolies, who had escaped from out of the *Nouvelle Penelope*, (the crime was at least so assumed against them,) and landing them on a Chinese island within sight of the windows of houses in Macao; there these sixteen poor wretches were on the 7th of February last, with the pomp and circumstance of a grand ceremony as on a gala day, in the presence of hundreds of spectators, beheaded by Chinese headsmen, all being under the order of the French consul at Canton, who accompanied these men from Canton, and directed the proceedings as superintendent or sheriff. Men sickened at the scene.

Rendition of the prisoner sought for like object.—The rendition of the prisoner now before me, Kwok-a-sing, has been asked doubtless in order that he may be added as one more, and so that one by one, and at length a great hecatomb of vengeance may be completed on China land—a lasting monument of the humanity, of the Christianity, of western civilization.

Why did not France ask for this rendition?—The alleged crime was committed on board a French ship; why did not the French consul ask for this man's rendition to French law? He knew that in the eye of French as of English law, this man was guilty of no crime, and he would not venture on such a demand.

Hope for investigation in Europe.—I hope that this matter will be, as I believe it will certainly be, duly investigated in Europe, that we may all receive such light and instruction as we each require, and so that what is right may hereafter prevail. If I am wrong in the view I have taken of the matter, I shall bow respectfully to correction from competent authority, but until my decision is reversed, that decision is, and must be, law in this colony.

No. 43.

Mr. Bailey to Mr. Davis.

No. 35.]

UNITED STATES CONSULATE,
Hong Kong, April 25, 1871. (Received June 20.)

SIR: The subject of Chinese emigration from this port to the United States has claimed my careful thought and patient investigation for the last four months, with a view to get at the facts, and to understand it in its surroundings and bearings. The whole subject is an anomaly. Rules that will do elsewhere in the world, when applied in considering questions of immigration, have no application to Chinese immigration to the United States. Immigrants to America from other parts of the world go of their own volition, free and voluntary. Emigration from China to all parts of the world is an organized business or trade, in which men of large capital, and hongs of great wealth, engage as a regular traffic, by which men are bought and sold for so much per head, precisely as a piece of merchandise is handled, at its market value. The poor laborer of Europe applies his own scanty means to get to the land of promise, or is assisted by his friends, charitable societies, or benevolent institutions, to reach a place where he hopes to have his toil properly requited, where his labor will inure to his own benefit. The cooly of China is bought by the rich trader to serve his purchaser at low wages for a series of years in a foreign country, under contract for the faithful performance of which in many instances he gives a mortgage on his wife and children, with a stipulation that at the end of his term of service he is to be brought back to China by his purchaser. This contract is sold by the dealer through his agents in the United States and elsewhere at a large advance, and is a source of great profit to capitalists who have the means to buy and sell large numbers of men. This contract, in the United States, is no doubt null and void,

but nevertheless the cooly will comply strictly with all its terms, a copy of which in Chinese characters is always in his possession, and this he will do because his purchaser holds his household *lares* in the land to which he always hopes and expects to return, in pledge for the faithful performance of his bonds. The central idea of a Chinaman's religion, if he has any religion at all, is that of the worship of the tombs of his ancestors. The superstitions of Fung-Shusy dominate him wherever he may be in the world. The subtle mysticisms of China so strangely govern all its people in their social, political, and quasi religious life, are as a hook in his nose, by which his purchaser controls him at all times and in all places; and thus this relation of master and quasi slave, no matter how many miles apart, is welded by the mystical links of religious superstitions, family ties, and rights of ancestral tombs, which control and regulate the reciprocal duties of trader and coolie in the home land.

The means of obtaining coolies are as various as the ingenuity of man can devise, and are as corrupt as the incentive to large gains can stimulate and invent. Men and boys are decoyed by all sorts of tricks, opiates, and illusory promises, into the haunts of the traders. Once in the clutches of these men-dealers, by a system of treachery and terrorism, connived at by the local Chinese authorities, whose chief business in life is to "squeeze" the people, the stupefied cooly is overawed into making a contract under such Chinese influences and surroundings as give it a sacredness of character nowhere else known in the world. From that moment he is the mere tool of the rich dealer wherever he may go. It is difficult for persons accustomed to western civilization to understand the depth and extent of this relationship, but Chinese civilization is unique, perhaps opaque, and cannot be measured by that of any other.

The above is a mere outline of the system, and is the general rule that controls Chinese emigration. Contact with American ideas and the spirit of American law has, in some measure, modified the rule as applied to Chinese emigrants going to the United States, so that there is in reality free and voluntary emigration; but it is so surrounded, mixed up, and tainted with the virus of the coolie trade, as to require the utmost vigilance and scrutiny to separate the legitimate from the illegitimate emigration.

I am charged under the law with the duty of giving to every American vessel leaving this port with Chinese emigrants, a permit or certificate, setting forth the fact that each person is a free and voluntary emigrant, but that the same shall not be given until I am first personally satisfied, by evidence produced, of the truth of the facts therein contained. I find among my consular duties, prescribed by the consular regulations of 1868, that I am—

"To repress and discourage, by all proper means, the traffic in laborers, usually called the cooly trade." It is fully expected that they (consular officers) will carefully see that its provisions (act of February 19, 1862) are strictly observed. The Secretary of State, in his circular of January 17, 1867, says: "You are consequently directed to make use of all the authority, power, and influence at your command, towards preventing and discouraging the carrying on of the traffic referred to in any way."

In the consular regulations of 1870, concerning the act of February 19, 1862, I find the following instructions:

Consuls will be rigid in exacting a compliance with these provisions.

I have made the above recapitulation to show the Secretary of State the stand-point from which I am viewing the subject, and the lights that are guiding me in the course I am pursuing; and to ask, if I am taking too serious a view of the matter, for such further instructions as the better judgment of the Secretary may think proper and advisable.

In consideration of the foregoing the first question that arises is, how shall I perform the duties devolving upon me in this matter? The number of emigrants is so large as to make it impossible for me to examine each person, and in addition attend to the various and arduous duties of this consulate. I must, therefore, either abandon the execution of the law as an idle form, or I must appoint a corps of assistants, sufficient in number, in integrity and sagacity, to make the examination a rigid and faithful compliance with the letter and spirit of the law. Heretofore, I am free to say, from all I have been able to learn, the whole proceeding in this regard has been a complete farce.

I have not the means to pay for these assistants, for my salary is hardly sufficient to support me in the plainest and most economical manner possible for me to adopt. Therefore I must allow these assistants to charge a fee such as will make reasonable compensation for their services, labor, and expenses in and about the matter. I can procure men of small capacity and less integrity to undertake the task for a mere trifle; but this would make an expense without any good in return, for such an examination would be neither thorough nor reliable. The only safe rule is to put the matter in charge of first-class men, and allow them to collect such fees as shall be reasonable compensation for their services. Even this plan, which seems to me at present to be the best, is not satisfactory to my mind, for the reason that it will necessarily involve an expense that may be the subject of irritation; but I do not know what better to do than to try it, and by carefully watching reduce it, as experience may suggest, to the lowest possible cost.

While the law, my instructions, and the condition of affairs here are as at present, I deem this examination by assistants as indispensable, and the necessary expense must follow it, unless the law and the facts are to be ignored and investigation abandoned.

Perhaps it will occur to the mind of the Secretary that a thorough investigation here as to the character of the emigrants going to the United States, and a check to prevent the now world-famed atrocities at Macao being practiced or winked at here, will largely negative the clamor of a growing public opinion in the United States hostile to the introduction of Chinese or servile labor, to compete with the great free-labor interests of our own country. Chinese emigration to the United States brings the opposite civilizations of the East and the West face to face, and it occurs to me that Congress is wise in throwing all the safeguards possible around the introduction of heathen labor, to prevent its bringing harm to our institutions. I am convinced that China is on the verge of a great cataclysm of some kind, and I believe it will result in sending immense numbers of Chinese, with the good and bad that is in them, to the United States. The facilities of ships and steamers will do it easily and cheaply, and they will go to escape unbearable evils here; whether to introduce unbearable evils there remains to be seen.

I have said that this traffic in laborers is exceedingly profitable; therefore I cannot expect that anything that will hamper it, by investigation or otherwise, will be popular with the men-dealers or with the great interests interlocked with it. It prostitutes everybody here, and thus far has prostrated every one who has stood up against it.

It will be asserted that I am putting obstacles in the way of commerce. I will endeavor to do my duty, let the consequences care for themselves. Well, so far as concerns that commerce which has for its object the buying and selling of men, I propose to put obstacles in its way. Legitimate emigration and legitimate commerce shall have my active co-operation and encouragement in every possible lawful way; but if commerce

demands at my hands assistance in a new mode of enslaving men, differing from the African slave-trade "in little else than the employment of fraud instead of force to make its victims captive," I will not lend my aid to build up its nefarious traffic, nor bow to the behests of the great houses that are interested in forcing this great wrong.

I have the honor, &c.,

D. H. BAILEY.

No. 44.

Mr. Bailey to Mr. Davis.

No. 36.]

UNITED STATES CONSULATE,
Hong Kong, May 12, 1871. (Received June 20.)

SIR: I transmit herewith a copy of correspondence between myself and the colonial governor of Macao, concerning the cooly-ship Dolores Ugarte.

I also inclose a circular containing an account of her passage last year from Macao to Callao with coolies, reciting the horrors of that voyage.

It is now my painful duty to state that, notwithstanding my earnest protest against her being permitted to reload with coolies at Macao, the governor of that colony, contrary to the spirit of his letter to me of April 24, allowed the ship to resort to the subterfuge of changing her name to that of the Don Juan, and her flag to that of Peru, and thereupon to load 665 coolies for Callao. She sailed from the Roads of Macao with her cargo of human beings on the 4th instant. But a dreadful catastrophe awaited her. Providence seems to have set her apart to shock the nations with a new horror that shall startle them to their duty in suppressing this infamous slave trade. On Saturday, the 6th, the ship was discovered to be on fire in the hold, where the coolies were kept. The captain states "that, with a view to save his own and his crews' lives, he battened down the hatches on the passengers, and took to the boats." The ship was burned to the water's edge, and with it over 600 victims of this atrocious traffic in men.

I inclose the reports of the daily press here up to closing of the mail. There is a conflict of evidence as to whether the ship was set on fire, or whether it was accidental. I express no positive opinion now on that point, but incline to the belief that the coolies in desperation fired the ship. I will forward at the earliest moment such other correspondence as I may have with the Governor de Souza on the subject.

I have the honor, &c.,

D. H. BAILEY.

No. 18.

UNITED STATES CONSULATE,
Hong-Kong, April 21, 1871.

SIR: I have not the honor of an acquaintance with your excellency, but knowing the high character you bear as a lover of fair dealing and a defender of the right, I make free to address you upon a subject that must obtain considerable notoriety, and concerning which your excellency has very great authority.

I allude to the fact that the Dolores Ugarte, now notorious throughout the civilized world for her atrocities in the coolie-trade, is reputed to be at this moment on the roads of Macao, preparing to load with coolies for Callao.

May I be so bold as to ask that your excellency will permit me to officially inform my government that you will interpose your authority to prevent that infamous ship having an opportunity to repeat the horrors of her last passage to Callao, and again flout her crimes in the face of the world, to the scandal of Christian civilization.

I am charged by my government with surveillance of the coolie-trade, and there being no United States consul at Macao, I have taken the liberty to address you in this grave matter, which will not be hid from public gaze nor shut out from the high tribunal of the nations.

But I have no doubt that your excellency has already taken the necessary steps to prevent a recurrence of the terrible scenes on that ship.

My apology for this hasty note is that I write it in the interest of humanity, a cause I know your excellency will protect.

With sentiments of high regard and consideration, I have the honor to be, sir, your most obedient servant,

DAVID H. BAILEY,
United States Consul.

His Excellency ANTONIO SERGIO DE SOUZA,
Governor of Macao.

OFFICE OF THE SECRETARY OF THE GOVERNOR OF MACAO,
April 24, 1871.

MOST ILLUSTRIOUS SIR: I am directed by his excellency the governor to acknowledge the receipt of your official letter No. 18 of 21st instant, and to state that notwithstanding you have not an exequatur to represent you to the government of this colony, yet, taking into most serious consideration the object mentioned in your correspondence, his excellency has forwarded to the competent authority a copy of your official letter and the certificates of the Portuguese consul in Peru in reference to the last voyages of the ship Dolores Ugarte, for the purpose of an inquiry to ascertain the veracity of the fact you allude to, so as to proceed as it should be.

Although it is not now permitted, according to orders of this government, from this port to ship emigrants in vessels under the republican flag of San Salvador, or of other nations that have no treaty with China, or not being countries to which coolies emigrate, it would be very desirable if you will be so good as to furnish me with any document or declaration that may serve as a legal basis to warrant an inquiry which his excellency has ordered to be instituted, the result of which may enable preventive measures to be taken with respect to the late captain of the aforesaid ship.

It is the rigorous duty of his excellency, according to orders from the government of Portugal, to avoid as much as possible the abuses which are committed upon the Chinese emigrants at this port. His excellency thinks he has done all that has been possible, as far as the authority of this government extends, to put down the abuses in such a trade, complying in this way not only with the orders of his faithful Majesty's government, but also with the obligations imposed by civilization and humanity.

The manner in which this Chinese emigration is conducted in this city is not generally appreciated, and his excellency would have much pleasure if you in your private character, or any other gentleman of respectability in Hong-Kong, would come and verify with your own eyes how the acts of emigration take place. You would certainly be convinced that in no part of China is this proceeded with more exemplary and so much regularity in objects of such high human interest.

God guard you, sir.

HENRIQUE DE CASTRO,
Colonial Secretary.

No. 23.

UNITED STATES CONSULATE,
Hong-Kong, May 1, 1871.

SIR: I have the honor to acknowledge the receipt of your letter of the 24th ultimo, in reference to the Dolores Ugarte. I should have responded to it immediately, but serious indisposition entirely prevented my doing so.

You will please convey my thanks to his excellency the governor for accepting my letter No. 18 as official, notwithstanding I have not an exequatur to the colonial government of Macao and Timor. I had anticipated this courtesy, considering the cordial relations happily subsisting between Portugal and the United States.

You inform me that his excellency has been pleased to call a syndicanca to make inquiry as to the facts charged against the Dolores Ugarte, and you ask me to furnish you with "documents or declarations" to serve as a "legal basis" to warrant inquiry. His excellency is aware that acts of state, on international questions, are not conducted as proceedings in courts of judicature, but acting on the broader and simpler principle of common repute, one nation, through its agents, may notify another of a breach of international law without thereby assuming to produce evidence in detail to sustain

its allegations. His excellency must well know that the crimes on board the Dolores Ugarte having come to light at Honolulu, I could not have "documents or declarations" in my possession at present, but if the man who was then captain of the ship will give competent bail to answer for his acts, I will forward his excellency's request to the State Department of my Government, and I doubt not that in the interest of humanity our consul at Honolulu will be directed to obtain and forward such evidence as may, at this distance of time, be procurable.

If I am not misinformed, his excellency has received from Portugal a remonstrance on the coolie trade addressed to her by a power entitled to the highest consideration. I have reason to know that it was the atrocities on board the Dolores Ugarte, as discovered at Honolulu and detailed in the Advertiser, reprinted in the Overland China Mail, November 15, 1870, a copy of which I inclose, that occasioned that remonstrance.

The purpose of my official No. 18 was not to ask for the legal trial, conviction, and judicial punishment of the criminals. My object was internationally to ask his excellency the governor and council, as the executive at Macao, as an act of state, to adhere to the spirit of treaties, and (not now insisting that the coolie traffic as conducted from every port in China is always in breach of treaties abolishing the slave trade) to submit that when coolies are taken from Macao, as elsewhere, under such circumstances as are judicially proved on behalf of the French consul in the Hong-Kong courts to have existed in the case of the Nouvelle Penelope, and also where such cruelties as were perpetrated on board the Dolores Ugarte are shown to exist by the only evidence immediately available, i. e., the newspaper reports, that then treaty obligations arise internationally, and that in such cases his excellency, in his own jurisdiction, unless on his own responsibility he denies the facts, is, under treaty stipulations, bound to prevent the possibility of the recurrence of the breach of treaty obligations on board such ships, unless he is restrained by positive law in force in Macao, obliging him to allow any and all ships to take in a cargo of coolies.

The atrocities on board the Frederic gave rise to a law in Hong-Kong, giving the entire uncontrolled discretion to the governor, to allow or disallow coolie emigration on board every ship.

This has been, as I understand, always the law at Macao, under which, as I learn, his excellency at one time prohibited all coolie emigration from that colony.

In your letter you state that, under the orders of your government, ships under the San Salvador flag are prohibited from carrying coolies. If I rightly understand that letter, the Dolores Ugarte being under that flag, will not be permitted to carry coolies. You notice two other grounds for such prohibition, viz, that San Salvador has no treaty with China, and that she is not a country to which coolies emigrate. I shall feel obliged, therefore, by your informing me that his excellency has the power, by local law, to prohibit the Dolores Ugarte from loading coolies at Macao, and that, in fact, on the two other grounds she comes within the prohibition.

Assuming that I shall receive such assurance, I will make no further remarks on this subject.

Concerning the system of Chinese emigration as conducted at Macao, I am free to say the evidence given in the Nouvelle Penelope case compels me to regard it with very great distrust; but inasmuch as I am to make a report on Chinese coolie emigration to my Government, and having a desire only for the truth, I cordially accept the invitation of his excellency, and, in my private character, I will visit Macao and carefully inspect the proceedings.

I purpose forwarding my official No. 18, together with your answer and this letter, to my Government by the American mail that will leave this port on the 12th instant. I shall be glad to forward at the same time such an assurance as I have herein asked for concerning the Dolores Ugarte.

With sentiments of high regard and consideration, I have the honor to be, sir, your most obedient servant,

DAVID H. BAILEY,
United States Consul.

No. 45.

Mr. Bailey to Mr. Davis.

No. 43.]

UNITED STATES CONSULATE,
Hong-Kong, June 10, 1871. (Received July 24.)

SIR: Referring to my dispatch No. 36, I have the honor to transmit herewith the closing correspondence between his excellency the governor of Macao and myself touching the coolie-ship Dolores Ugarte.

I also inclose the statements taken in this colony, of some of the survivors, coolies, and crew, concerning the catastrophe.

Notwithstanding the fact that the crew of the ship landed at Macao a few hours after the disaster, and remained there for several days, nothing whatever appears to have been done toward investigating the cause of the burning of the vessel. This strange inertness concerning so terrible an affair can be explained on the hypothesis that silence is a mantle best fitted to hide a "barbarism" that publicity might expose. Although a number of the surviving coolies, and some of the crew, have come to this colony, the officials here seem averse to take public action in the matter, though singularly enough a secret investigation has been had before one of the magistrates; for what purpose, and with what results, I am unable to accurately state; I presume, however, with a view to ascertain whether the facts would authorize the colonial government to order a public inquiry.

On learning that some of the crew had arrived here, and fearing that the matter would be allowed to sink into oblivion, I at once secured their attendance at my consulate to give evidence concerning the deplorable event. You will find their evidence among the inclosures herewith, marked, Nos. 3½, 4, 5, 6 and 7.

You will observe by the statements, both of the coolies and crew, that although they do not agree as to how the ship was fired, yet they do remarkably concur in stating facts and conditions that leave no reasonable doubt that this is verily the slave trade, and that the Dolores Ugarte was a slave-ship engaged in carrying slaves in contravention and defiance of the slave-trade treaties. One of the witnesses, Albert Herker, one of the crew, sums the whole matter in a nut-shell, when he says, in substance, that the captain had seven coolies on board that he had *bought on private speculation*. This pregnant statement is confirmed by other witnesses.

Having now stated the facts in this grave case, I submit the whole matter to the Department, hoping that what I have done will meet the approval of the President.

I have, &c.,

DAVID H. BAILEY.

Inclosures.

Henrique de Castro's letter translation to D. H. Bailey; Henrique de Castro's letter, in Portuguese, to D. H. Bailey; D. H. Bailey's letter to Henrique de Castro; statements Nos. 3½, 4, 5, 6 and 7, of coolies and crew.

No. 43.]

SECRETARIAT OF THE GOVERNMENT OF MACAO AND TIMOR.

SIR: Your official letter No. 23 of the 1st instant has been laid before the governor, and I am directed to reply to it as follows:

Whenever questions affecting the lofty interests of humanity, as does the coolie emigration, are raised, you, or any other person, will find his excellency the governor most sincerely desirous of giving ear to every representation that may be made him, especially when such questions are in themselves of a serious nature, as happens in the present case, and therefore your letter demands the greatest attention.

His excellency is not ignorant of the fact that questions of an international character are not generally dealt with as are the ordinary proceedings in our tribunals, but it is no doubt that when such questions turn upon questions of fact, upon which it is sought to raise a distinct claim, it is not possible to get on without proofs clear and conclusive.

But that your excellency may be fully convinced of the scrupulous care of his excellency in this matter of the emigration, it is sufficient to say that he has by formal act prohibited emigration in ships of nations which have no treaty with China, including in this prohibition the republic of San Salvador, not only because that nation has no vessels of war to watch over the doings of its mercantile marine, and has no treaty with China, but also because of the facts which his excellency finds narrated in the public prints relative to the Dolores Ugarte, although in the certificates granted by the Portuguese consul in Peru nothing appears with regard to the barbarous proceedings said to have taken place on board the said ship on her last voyage, and his excellency, in his official acts, ought not, in strictness, to act on allegations contained in the public journals, however great his esteem for the noble institution of the press.

His excellency's request, therefore, to be furnished by your excellency with some documents or proofs which might serve as a foundation for a commission of inquiry, and throw light on the affair, was made with a view to his being able to exercise his authority as governor in the only way in which he can legally do so, by demanding the punishment of every individual who should become guilty or accessory to like acts of barbarity, when duly proved.

From the inquiries which his excellency has ordered to be made, he finds himself fully informed that neither the captain, pilot, nor any individual of the crew are now on board the Dolores Ugarte, and, further, that the Captain Saul remained in Callao, and the crew was entirely engaged at Hong-Kong, as your excellency can easily verify, even if unwilling to give the proper degree of credit to the certificate of the Peruvian consul in this city, and to the official reports of our captain of the port; and this being so, and the vessel having changed her flag, his excellency cannot, except by an act of the most unqualified despotism, prohibit her sailing, without seeking to attribute to the material vessel herself the acts which your excellency asserts to have been practiced on board, which would be absurd.

Therefore his excellency has confined himself within the limits of his authority, in expressly prohibiting any vessel to load coolies on board which shall be found, as captain or pilot, those who held the same posts on the former voyage of the Dolores Ugarte, these persons being the principals responsible for the acts said to have been done on board that ship.

As to the right of this government to permit Chinese emigration from this port, it appears to his excellency to be indisputable, as in the face of treaties the contrary cannot be maintained, nor is there any special law which so determines; and his excellency regrets deeply that your excellency should have incidentally referred to the slave treaties, as if seeking to connect with such the Chinese emigration from this port.

From the Boletuns officials, which I have had the honor of sending you, your excellency will perceive that the embarkation of coolies under the San Salvadorean flag has been prohibited, and you will see equally the proceedings of his excellency relative to the captain and pilot of the ship Dolores Ugarte, if perchance the said individuals should return to this port, but as against the (keel of the) said ship, now under another flag, and having no person on board of the former crew, there is no law, in virtue of which his excellency can, nor does he consider himself authorized in any way to take proceedings. As to that part of the correspondence which relates to the ship Nouvelle Penelope, in which your excellency appears to give credit to what was put forward in the courts at Hong-Kong, to the effect that the coolies had been kidnapped by the captain, embarked by force, escorted by armed soldiers of the military force of this colony, without having been examined in the superintendence of emigration in conformity with the laws in force, &c., &c., his excellency has no hesitation in formally, in his official character, contradicting existence of such facts.

On conclusion, I am further directed to signify to your excellency how much pleasure it will give his excellency, if at any time your excellency will come and verify the official proceedings had in this colony to secure the liberty of the emigrants, and be present at the embarkation, and his excellency is sure that your excellency, with the impartiality which characterizes you, will judge of this business differently from what now you appear to think, and that your mistrust will be entirely removed.

God guard your excellency.

HENRIQUE DECASTRO.
Secretary General.

Illustrious Sir, CONSUL OF THE UNITED STATES at Hong-Kong.

No. 26.]

UNITED STATES CONSULATE,
Hong-Kong, May 30, 1871.

SIR: On my return from Canton, after an absence of several days, I find your letter of the 26th instant awaiting my arrival.

I may confess in the beginning of this letter that I can scarcely write with equanimity

concerning the subject of this correspondence, the Dolores Ugarte, and the terrible termination to which she has come—an end I so earnestly besought his excellency to guard against. I certainly cannot consent to gloze her career by the subterfuges of changing her name and flag; and I exceedingly regret that his excellency feels called upon to extenuate her acts by the citation of these facts in her defense. She has sullied the flags of three nations to her base purposes; with each exigency changing her colors to hide her crimes. I assume that his excellency has acted from the best of motives, but I must regard it as very unfortunate that such shallow acts were allowed to cover her guilt and give her new license to go forth and commit unparalleled horrors in the face of the world.

In full view of what has happened, I doubt not his excellency deplores the events connected with this great catastrophe. His excellency expresses a regret that I should have referred to the slave trade treaties as applicable to the coolie trade of Macao. I did so advisedly. The treaties for the suppression of the slave trade are not merely for the protection of the negro, but are for all mankind. Although I have not examined the subject as fully as I would like, I cannot but agree with the chief justice of this colony, that the dealing in coolies, as was proved on the cross-examination of the witnesses on behalf of the prosecution in the Kwok-a-sing case, and the published statements of the survivors of the Dolores Ugarte, is as thorough a slave trade as was ever known in the world.

You will observe that the evidence on which this opinion is founded, which his excellency discredits, is the evidence of the seamen, as well as of coolies giving testimony under coercion, in the case of the *Nouvelle Penelope*, and that such evidence was intended to exhibit the treatment of the coolies in the most favorable light; that the statements in the case of the Dolores Ugarte have a singular agreement as to kidnapping, fraud and force, used by the men-dealers in the initiatory steps in the interior of the provinces, in the barracoons at Macao, the embarkation on the vessel, the iron gratings closed over the victims of the traffic on board the ship, and the cannon and arms to keep them in subjection during the passage to Callao.

But further discussion is futile. The object of my communications with the colonial government of Macao being to prevent the Dolores Ugarte from loading coolies, and my remonstrance having failed, there is no further necessity, on my part, for a correspondence on a subject that has passed, by the logic of inexorable events, to a higher and more potent forum. I have nothing left me to do but to submit the whole matter to my Government for such action as it may think proper in the premises.

It has now become a high international question; and that liberal diplomacy which so signally distinguishes this age above all others will doubtless settle it in the best interests of humanity.

With renewed sentiments of high consideration and regard, I have the honor to be, sir, your most obedient servant,

DAVID A. BAILEY,
United States Consul.

Hon. HENRIQUE DE CASTRO,
Colonial Secretary, Macao.

No. 46.

Mr. Bailey to Mr. Davis.

No. 44.]

UNITED STATES CONSULATE,
Hong-Kong, June 10, 1871. (Received July 24.)

SIR: Referring to my dispatch, No. 24, I have the honor to transmit the inclosed decision of the chief justice of the supreme court of this colony in the recent *habeas corpus* case of Kwok-a-sing.

In as much as this decision relates to the Macao coolie trade, and also refers to the Dolores Ugarte, I respectfully call the attention of the Secretary thereto.

I have, &c.,

DAVID H. BAILEY.

[From the Daily Press, May 23, 1871.]

SUPREME COURT OF HONG-KONG, MAY 22, 1871. BEFORE THE HON. CHIEF JUSTICE SMALE. COOLIES NOT CRIMINAL FOR RISING ON THE CAPTAIN OF A COOLIE SHIP FROM MACAO TO PERU.

The following judgment by Chief Justice Smale, on the return to a second *habeas corpus* of Kwok-a-sing, who had been committed by Mr. May, police magistrate, for piracy *jure gentium* and murder, and against whom an information for piracy, and robbery, and a deadly assault on the captain and crew of the *Nouvelle Penelope*, at sea, had been filed, and had been served on the prisoner. This decision follows up and carries out to its logical consequences the decision of the same judge on the 29th March last. The judge unhesitatingly declares the right of coolies in the coolie ships for Peru to regain their freedom by any means in their power. It will be noticed that the prisoner was set at large.

Judgment.

Kwok-a-sing was committed to gaol by warrant of Mr. May, police magistrate, dated the 7th of February, 1871, in which it was set forth as follows: "That a communication having been received requiring the rendition of the defendant on behalf of the Chinese government as a subject of China, who has committed certain crimes and offenses against the laws of China, by participating in the murder of the crew of the French ship *Nouvelle Penelope*, and it appearing to me, upon investigation of the case, that there is cause to believe that the said defendant is a subject of China, and has committed the said crimes against the laws of China by feloniously seizing the said ship at sea, and by murdering the captain and certain of the crew of the said ship on the 4th October last past, at sea; and further, that after committing the said crimes, did feloniously seize a boat belonging to the said ship, and land at a place called Pakka, in Chinese territory, on the 4th October aforesaid, and it was thereupon adjudged that the said defendant, for the said offence, should be committed to gaol for detention, pending the receipt of orders from his excellency the lieutenant governor, as to his further disposal." I believe the practice has been, without exception, for the governor, on such a finding, to deliver up the person claimed to China. A writ of *habeas corpus* was obtained, and the prisoner was brought before me, when the superintendent of the gaol adduced the warrant, the purport of which I have just read, as the cause of detention. On the same occasion, Mr. May, in obedience to a writ of *certiorari*, returned to me the depositions on which his warrant was founded. After protracted arguments, and after very much consideration, the prisoner was, on the 18th of April, 1871, by this court, to use the words of section 6 of the *habeas corpus* act, "*delivered and set at large upon*" that "*habeas corpus*." The prisoner was, as I understand, immediately after his having been so "set at large," seized within a gun-shot of the court, as he was proceeding toward Taipingshan, in a house in which he had been arrested, and towards which I presume he was proceeding as to his home. Referring to what was said by the court in *re Douglas*, in Queen's Bench Report, I make no observation, because in the view I take of this case to do so is unnecessary; but, if necessary, it is open to the prisoner to contend that such arrest vitiated the whole of the subsequent proceedings against him, or such of them as it is his interest to allege were unsustainable in law. Such an arrest was on a demand by the French consul for the prisoner's arrest, made pending the hearing on the writ of *habeas corpus* before me, and upon a warrant granted for his arrest dated the 16th day of February last, at which time also that hearing before me was actually pending. An investigation upon this new demand by the French consul proceeded in the council chamber before the executive council, but the attorney general, on the 26th day of April, 1871, announced that the French consul withdrew his demand, and that investigation terminated suddenly, the prisoner being present. Immediately thereupon the attorney general directed the superintendent of the police to arrest, and he did arrest, the prisoner, in the council chamber, on a charge of piracy *jure gentium*. Under this arrest the prisoner was brought before Mr. May, who committed him for trial before this court in its criminal sessions. On an appointment made by me at chambers on the 10th of May, the court sat on the 12th, specially to hear a motion for a writ of *habeas corpus* directed to the superintendent of the gaol, and ordering him to bring up the body of the prisoner. I granted the writ and also a writ of *certiorari* for the depositions. Both writs were returned into court on the 15th, when I heard the motion on the second, the now pending, writ for the discharge of the prisoner. The following are the words of the substantial part of the second warrant of commitment by Mr. May, of the 10th of May, 1871: "Whereas the above-named defendant was charged, before me, on the testimony of credible witnesses, for that the said defendant, on 4th October last past, with a number of other evil disposed persons, unknown, with arms, upon the high seas, within the jurisdiction of the admiralty of England, and on board a certain ship or vessel called the *Nouvelle Penelope*, upon the high seas, then being in and upon one Vigoureux, the master of the said, the

officers and seamen of the said ship, in the peace of God and our Lady the Queen, then and there being, piratically and feloniously did make an assault, and the said ship, and the apparel and tackle of the said ship, feloniously and violently did steal, take and carry away; and immediately before the commission of the said felony, the said defendant and the evil-disposed persons aforesaid did feloniously, wilfully, and of their malice aforethought, kill and murder the said Vigoreux, the master, Manfillent, the chief officer of the said ship, and Le Jusan, Paul Gigot, Francis Labert, Edmund Mongaret, and Ishmael Alphonse, seamen, and a certain Manila seaman, whose name is not known, of the crew of the said ship; and it was thereupon ordered that the said defendant should be committed to prison to take his trial for the said offense at the next criminal sessions of the supreme court." Mr. Francis deposes that the piratical and felonious acts deposed to against Kwok-a-sing on this second occasion are the same felonious acts, and no other, as those in respect of which he was, on the 7th of February, committed. He also deposed that Kwok-a-sing was, on the 10th of May, committed by Mr. May, and the offense charged in that warrant is the same, and no other, as that for which he was committed on the 7th of February last. No affidavit in contradiction or explanation having been filed, I must take these statements so far as they are statements of facts, and not conclusions of law, as established for the purposes of the present decision. I may here note that for the prosecution reliance is also placed on the fact that an information equivalent to a true bill on an indictment by a grand jury has been filed. I have drawn out in a tabular form the several charges on the first commitment, which I held to be bad, and on the second commitment on the writ of *habeas corpus*, now under consideration, and as contained in the information filed by the attorney general now also relied on. The following table shows the sameness of the charge in one of the charges to those in the other two documents:

No. 1.—Offense as set out on commitment, from which, on first <i>habeas corpus</i> , prisoner was set at large.	No. 2.—Offense as set out against prisoner on commitment, in respect of which this second <i>habeas corpus</i> is pending.	No. 3.—Offense for which the information is filed against the prisoner.
1 Feloniously seizing ship <i>Nouvelle Penelope</i> , and stealing her at sea.	Piratically and feloniously assaulting, and stealing ship <i>Nouvelle Penelope</i> , and her apparel and tackle at sea.	Piratically and feloniously seizing ship <i>Nouvelle Penelope</i> and apparel and tackle at sea.
2 Murdering captain and certain of the crew, without naming them.	Murdering captain and certain of the crew, naming them.	Assaulting captain and certain of the crew, naming them, and throwing them into the sea.
3 On 4th of October, 1870.	On 4th of October.	On 4th of October, 1870.
4 Afterwards stealing a boat.	No subsequent charge.	Piratically stealing \$10,000 and 10 watches, in custody of, and against will of captain and crew, i. e., within the few minutes after outbreak, and before their death, on 4th October.
5 At sea.	In jurisdiction of admiralty at sea, and in peace of the Queen.	At sea, and in peace of the Queen.

Excluding entirely from consideration, at present, No. 3, and considering only No. 1 and No. 2, Mr. Francis contends that they describe the "same offense," and no other, and he contends that, under section 6 of the *habeas corpus* act, the prisoner is entitled to be discharged from custody. Neither for or against the prisoner has any case, as a precedent in point, been found in the books in this colony. I am, therefore, driven to work out for myself the precise meaning of section 9. Now, considering that the act was passed *inter alia* to prevent oppression by repeated arrests for the same offense, I read the operative words of section 6, as applicable to this prisoner, thus: That no person set at large upon any *habeas corpus* shall be again imprisoned or committed "for the same offense" by any person, other than by the legal process of the "court having jurisdiction of the cause." I am of opinion that the subsequent part of this section, which gives a right of action, need not be referred to for the purpose now before me. Now, as I have said, I am bound to believe the uncontradicted affidavit that the offense mentioned in each of Mr. May's commitments is one and the same, and no other. Moreover, the bad act which is the meaning of "offense," as set out in each column, appears to me to be the same in substance. Now, who or what has authority given to him or it to again imprison or arrest the man set at large? The "court having jurisdiction of the cause," and no other. Can Mr. May, or can his court, be so designated? Cox v.

Coleridge, 1 B and C, 37, but which I always read in 3 Burns Jus., by Chetwyn, 1835, a most instructive case, with which I was more familiar some thirty or forty years ago than now, shows that, although when sitting to punish under a statute, Mr. May sits as a court, yet that when he sits as a magistrate, with a view to committal for trial before this court, his magistracy is not a court. His is a "preliminary inquiry," and not a "trial." But concede it to be a court, has it, or can it have, jurisdiction of the cause? Now, jurisdiction is an authority *judicare*, which has been well translated to pronounce judgment—to give a judicial decision that is to end and determine the cause, which Mr. May certainly has no authority to do. This simple etymological analysis conclusively, to my mind, excludes Mr. May's power to commit as an exception to the general prohibition of a second commitment in the sixth section. I heard a cross-motion by the attorney general to quash the writ of *habeas corpus*, by reason that Kwok-a-Sing stands committed for trial at the next sessions before this court for felony, plainly expressed on the warrant of commitment. Now, this notice amounts to an admission by the prosecution that the charge of piracy in column No. 2 is a charge of felony equivalent to that set out in column No. 1. That is, that the charge on the second commitment is the same as the charge on the first commitment. But if that be so, then charge No. 2 is absolutely prohibited by section 6. The second ground for this cross-motion is this, that subsequently to the committal by Mr. May, and previous to the issuing of the second writ of *habeas corpus*, Kwok-a-Sing was duly served with an information (being here equivalent to a true bill by a grand jury in England) whereby he is charged with piracy and violence. Now, referring to No. 3 of the tabular statement before referred to, this information is identical in substance, though not in precise words, in charging the same offense (piratical and felonious being but different modes of designating the same bad act—offense) as the charges in No. 1 and No. 2. The taking of the \$10,000 and the apparel and the ten watches, in the attorney general's information, No. 3 of tabular statement, is laid as having occurred while these articles were in the custody, and to have been taken against the will of the captain and crew—that is, during their lives; that is, between the first outbreak and their deaths, on the 4th of October, (a very short period.) These takings were therefore part of the main felonious or piratical *res gesta*. In respect of No. 1, I have already said that there was no legal ground of charge against this prisoner. On the present depositions, No. 2, still less can this prisoner be convicted, and I do not see how, on such evidence, the information No. 3 can be sustained in law, or how it is other than a charge to the same purport as Nos. 1 and No. 2, and on this information he is not a prisoner. The attorney general contended that this information, the purport of which appears in No. 3 of the tabular statement, takes Kwok-a-sing from out of the protection of section 6, and brings him within the provisions of section 7 of the *habeas corpus* act. My opinion is that there are no words in section 7 that take away the protection of section 6. That section 7 takes up a subject essentially different from the subject-matter of the enactments up to section 7. That seventh section confines itself to cases which proceeded without any writ of *habeas corpus*, and it provides for the then frequently occurring oppression of the subject, by repeatedly postponing the trial of the person charged. I am, on the whole, of opinion that Kwok-a-sing is entitled to be discharged, and I deliver him and set him at large. The attorney general having stated that officials from Macao purpose to come over, and to give evidence on the trial of this prisoner, I am, on that account, very much disappointed. The more thoroughly the whole history of the Nouvelle Penelope is ventilated the better for humanity. It will be lamentable if these officials cannot be examined and cross-examined in an open court. Macao would be as much upon its trial before the world as this poor, miserable man, Kwok-a-sing, who has been now, ever since the 6th of February, stretched on a rack of mental torture, compared with which the Chinese much-abused ordinary physical tortures would be bearable. In the course of the argument the attorney general asked from the court an order of detainer against the prisoner on account of the existence of the information filed by him. He offered no precedent for such an act by the court, and I know of no authority on which I could justify compliance with his request upon this hearing of the application on this writ of *habeas corpus*. The prisoner is free, and effect must, at the risk of a contempt of this court, be given to the decision of this court which sets him free. The questions arising out of the case of the Nouvelle Penelope have attained an unprecedented interest since that catastrophe has been followed by the horrible incidents connected with the deaths by burning of the coolies on board the Dolores Ugarte. Many seamen and coolies who have escaped from the appalling scene, a ship on fire, are now in this colony. It is due to the authorities at Macao, maligned as they are said to be, that this friendly government should publicly, by a commission of inquiry, elicit the truth, the whole truth authoritatively, and that this office should not be left to the conductors of the newspaper press here, whose active investigation, in the absence of a better organized and authorized inquiry, must be much less satisfactory, though honest. Such an inquiry will, I doubt not, be expected by the authorities at home. It will be looked for by the whole civilized world, which now sits in judgment as in international conclave on such horrors as these. Such an investigation is the more called for here

since the Dolores Ugarte was fitted up, having all her slave-carrying appliances, in the waters of this colony. It has been asked why was she not stopped and prosecuted here? Could nothing have been done, either under ordinance No. 1 of 1862, section 7, or under that most comprehensive act of the imperial legislature, 5 Geo. 4, chap. 113, especially section 10? I can account for the past. No blame attaches to any one, especially with the notion prevalent as to what the law was. As to the past, while I claim credit for having acted according to my convictions, I am bound to, and do assume, that they who acted differently intended right, at least equally with myself. It would be useful to know what ship, and flying what flag, it was that towed the Dolores Ugarte out of the Macao roads, and whether any, and what insurers, and being of what nationality, secured as a debt of honor to the slavers the value of the living cargo of the Dolores Ugarte in the event that has happened. Not further referring to the past, if I am not mistaken even now, two, if not several, vessels are within these waters, under the control of the harbor-master, whose fittings and appliances plainly indicate their destination for that slave trade, against which, as by common consent, Chinamen make the only terrible protest in their power. Like Sampson, whom, from infancy, we have been taught to admire, (to admire is, in the young, to yearn to imitate,) they have immolated, and will continue to immolate their masters, heedless of the results to themselves. Macao and the coolie ships divide the large profits of this traffic, but has not this colony acted the part of the lion's provider, and has not here a small part of the profits attending these adventures been distributed? If the answer be in the affirmative, must not this colony share, and does she not in fact, rightly or wrongly, share with Macao the discredit of this atrocious trade among the Chinese? To recur to the information filed by the attorney general against the prisoner, it charges that the *Nouvelle Penelope* was "in the peace of our lady the Queen." That is a necessary fact to be proved, to give this court jurisdiction to try this prisoner upon this information. On the depositions first before me I held that the *Nouvelle Penelope* was a pirate ship, as a conclusion of law. The evidence in the depositions on which exclusively this information is and must be founded and filed, (the attorney general can legally import no other into his mind,) is certainly in this respect, as to the prisoner's guilt, *ad idem*, not more if so much. Now if she was a pirate ship can she, being an enemy of all mankind, be other than an enemy of the Queen? And an enemy's ship is not in the peace of the Queen. (See *Arch.*, *Plea and Evidence*, p. 366, 15th edition.) Whether the acts charged against this prisoner be piratical or not in themselves, has this court jurisdiction over acts done in a ship which, whether according to French or English law, is at the time in the commission of an act declared piratical by both nations, and therefore not in the peace of the Queen? But let it be assumed that these coolies were merely illegally coerced, an English lawyer must apply this principle to such a case. If a number of men are not in lawful custody they are not guilty of the murder of those *de facto* in authority over them. Being prisoners, they have a right to regain their freedom by any means in their power. This is the law to be found in *R. v. Serva* and others, 1 Den. C. C. R., 104, which see also in *Roscoe, C. Evidence*, 777, 778, and in 1 *Rus.*, by Greaves, 247, 249. Moreover, *R. v. Lesley*, Bell, C. C., 220, goes to this extent, that the fact that men legally imprisoned, and so legally put on board a ship in Chili, (Macao,) does not render the continuance of that coercion in a British ship at sea legal, and the captain of a British ship was convicted and imprisoned in England for such false imprisonment at sea. These are mere suggestions in reference to any future consideration of this case, if any such there may be. I know that the atrocities of the coolie slave-trade, (unparalleled save possibly in the worst phases of the African slave-trade,) which have recently been brought to public cognizance, will arrest attention and excite horror wherever the English language is spoken, in the United States as much as throughout the British empire, and I trust that as good springs out of evil generally, so here, that the concurrent opinion and excited action of all Christendom, induced by these atrocities, will establish such a police on the sea as to render all coerced emigration (inevitably tending to the slave trade) impossible. In conclusion, I would adapt what was said of negroes by Montesquieu—no democrat, no fanatic, but a nobleman, a judge, and a French philosopher: "We cannot admit Chinese sea-borne coolie slaves to be men; to do so would soon lead to our believing that we are not Christians."

No. 47.

Mr. Bailey to Mr. Davis.

No. 63.]

UNITED STATES CONSULATE,
Hong-Kong, September 12, 1871. Received October 23.

SIR: Referring to my dispatches Nos. 33 and 35, I have the honor to inclose an official communication from the colonial secretary of this col-

ony, with accompanying documents, concerning the shipment of coolies hence to the United States by Mr. George E. Payne. A large proportion of the coolies referred to in the registrar general's letter had undoubtedly been inveigled, and some kidnapped, by the coolie broker Lai-On, who is, as I learn, a notorious Macao dealer in human flesh. Fortunately, the coolies all escaped from the vessel, (the Pacific mail-steamer "China,") and are now at liberty.

As I have frequently stated before, I repeat now, that the entire traffic is top-full of fraud, corruption, and the most brutal inhumanity.

I have, &c.,

DAVID H. BAILEY.

Mr. Smith to Mr. Austin.

No. 74.]

REGISTRAR GENERAL'S OFFICE,
Hong-Kong, August 14, 1871.

SIR: On Friday last, the 11th instant, some members of the board of direction brought me the inclosed Chinese letter, (translation annexed,) which purported to come from some one who was, against his will, on board the outgoing American mail-steamer bound for San Francisco. Having sent for the Chinese broker, I gathered from him the information given in his statement, annexed, and finding that the intending emigrants had all come on shore, it did not seem necessary to take any immediate action in the matter. However, as I learned that the coolies, as alleged, were to have signed the contracts when on board, after the steamer had left the harbor, I think it right to bring the subject to the notice of his excellency the lieutenant governor, as, if true, there was an attempt at infringing the emigration laws.

A copy of the contract, which I obtained from the Chinese broker, is inclosed.

I have, &c.,

CECIL C. SMITH, *Registrar General.*

Mr. Austin to Mr. Bailey.

No. 392.]

COLONIAL SECRETARY'S OFFICE,
August 15, 1871.

SIR: I am directed by his excellency the lieutenant governor to forward for your consideration a letter which has been sent to this department by the registrar general, in reference to the action alleged to have been taken by Mr. George Payne, an American citizen, regarding emigration to San Francisco. I beg to draw your attention to that part of Mr. Smith's letter in which he refers to the evasion of the emigration laws of the colony, which must necessarily have resulted from the signature of contracts after the departure of the steamer.

I have, &c.,

I. GARDINER AUSTIN.

Mr. Austin to Mr. Bailey.

No. 430.]

COLONIAL SECRETARY'S OFFICE,
September 11, 1871.

SIR: I have the honor to acknowledge the receipt of your letter of the 6th instant, and to forward to you, in accordance with your request, a copy of the letter addressed to this department by the registrar general, in reference to the coolies recently embarked for San Francisco by Mr. Payne.

I have, &c.,

I. GARDINER AUSTIN.

From the California steamer to the board of direction of the Chinese hospital. (An anonymous letter.)

The committee of the hospital should come forward to save human lives.

There was a Hakka, named Lai-on, who, several times last year, took people over to Macao and sold them; thus, he and his brothers ate human flesh.

On the 24th of this month a certain foreigner, who does not belong to any firm, unlawfully induced people to go to foreign countries, which are twice the distance to California, at five dollars a head. More than ten brokers dared not undertake the business, but Lai-on undertook it, and brought some printed forms to our villages, and induced the people to go to the interior of California. You had better go to the On-Ki emigration house on Wing-on street, where you can obtain a printed form, and request the harbor-master not to allow people to go. Also have a notice posted up at the California mail-steamer's wharf. This will be the means of saving men's lives, as on the 24th or 25th days they will go on board the California ship, where they will receive their pay and proceed on their voyage.

I am Lai-on, master of the On-Kee shop, No. 31 Wing-on lane. I am acting as emigration agent for Mr. G. E. Payne. Mr. Payne promised to give to myself \$5 as commission, and \$2, \$3, or \$5 as expenses and commission to the sub-agent for every emigrant from the interior, and shipped on board the California steamer that leaves here to-morrow. I had got on board the steamer yesterday for Mr. Payne, altogether, 270 men. Before they went on board each of them was promised to be paid an advance of \$5 at 10 a. m. this morning. At 8 a. m. this morning there were about 40 or 50 of those men from the steamer who came to my shop asking me to give them \$5 each as promised. I told them that Mr. Payne said that they could not be paid until the bank is opened, which will be 10 o'clock. They commenced to abuse me and accusing me of selling them as pigs, for which two of their fellow-men lost their lives by jumping overboard and drowning themselves. They then smashed everything in the shop; even the sign-board outside was broken. The whole of the 270 men have left the steamer. When the men came from the interior, and before they were shipped on board, all their expenses for board and lodging were paid by me. From the day I undertook the agency up to this day I have already spent a sum of \$600 or \$700. There was to be an agreement between Mr. Payne and myself, and another between Mr. Payne and the emigrants, but all of them have not been signed. Before the emigrants were taken to the harbor-master's office, where each of them got a paper from that office to go on board, they got passage-tickets from the California Mail-Steamer Company's office. These tickets were given to them by me, and were handed over to me by Mr. Payne. They went on board of their own will and accord. I never used any improper means or force of any kind to secure them on board. When they were at the harbor-master's office, I asked them whether they knew where they were going to, and whether they were going of their own accord? They answered in the affirmative. They were further asked whether or not they had been induced to go by unlawful means? They answered no. Then they were passed on to the harbor-master's office, where they received their papers or certificates going on board the ship.

The above statement was made by Lai-on on Saturday, the 12th instant.

C. C. S.
R. G.

True copies:

I. GARDINER AUSTIN,
Colonial Secretary.

No. 48.

Mr. Hall to Mr. Davis.

No. 570.]

U. S. CONSULATE GENERAL,
Havana, October 27, 1871. (Received November 3.)

SIR: Referring to my Nos. 551, 539, and series relating to the subject of Chinese colonization, I have the honor to transmit herewith an extract and translation of an article upon the subject of Asiatic immigration, as the coolie system is sometimes called, that appeared in the "Diario" of the 20th instant. I doubt not it will be found of interest, especially the statistical part, from which it appears that, since 3d June, 1847, when the first expedition arrived, there have been introduced into the island 109,092 Asiatic colonists, at an average cost to the purchaser of \$340 each, representing a disbursement of \$37,000,000 and upwards, or \$1,500,000 annually.

It would be interesting to know how many of these Asiatics have returned to their country, how many are now living, how many have been

subjected to capital punishment in Cuba, how many have died in prisons and chain-gangs, and how many, in their despair, have committed suicide.

The report refers to the great progress the island has made since the introduction of the Asiatics or Chinese, as they are indiscriminately called, and counts upon the same element for its development during the period of its political reconstruction, after peace has been restored.

It further states that the great want of the island is an abundance of hands, of cheap and easy reposition, and no other country except the Celestial Empire can furnish them.

I have, &c.,

HENRY C. HALL,
Vice-Consul General.



[Translation.]

ASIATICS.

Extract from an official document, in which are set forth the origin, results, and prospects as regards the Island of Cuba, by the immigration of this class of laborers.

The committee appointed at the meeting of planters, convened on the 16th of last September under the presidency of his excellency the political governor, with the object of discussing various details relating to Asiatic colonization, in connection with the royal order of the 27th last April, it is understood has laid before the council of administration of this province the report drawn up in accordance with the resolutions adopted at the said meeting.

The committee considering that the matter merits the greatest possible promptitude, and deeming it its duty to propagate those ideas which, by reason of their elevated origin, have a greater influence upon public opinion, have deemed it advisable to extract from the official communication with which His Excellency the political governor forwarded to the supreme government, the copy of the proceedings of the committee of planters before referred to, because in it is to be found a compendium of the economical history of labor in this island, a clear statement of the advancement due to Asiatic immigration, analyses the legislation bearing on the subject, and further, because it proposes and examines improvements and reforms which apply to the perfecting of this branch of the administration, and lays down sound principles of government applicable to the reconstruction and reconstitution of the country, which the insurrection has made necessary. In fine, in every portion of the document are found doctrines of order, morality, and justice, which place Asiatic colonization on its proper ground, which is the development of the wealth of the island, without occasioning confusion of any nature, by first accomplishing, collectively, grand agricultural and industrial enterprises, and afterward by individual efforts in their dedication to smaller cultures and industries.

The governor begins by tracing, in broad and truthful lines, what may be called a primitive economical history of the Island of Cuba, and after stating the causes which influenced the wonderful development of its wealth, comes naturally to the period when, in consequence of international treaties, the slave trade was obliged to cease, and at which the decadence of the island would seem to have begun. From this subject the governor passes to treat of the conflict which arose between industry and agriculture, prefacing, as it were, their total ruin from the scarcity of labor, and recalls the various attempts at free labor, and all of which failed because it was impossible to pass at once from slave to free labor, either because the new systems were not sufficiently perfected, or because the country was not yet sufficiently prepared for a radical change in the mode of developing agrarian property. Needing, then, an abundance of labor, cheapness, and an easy replacement of losses which would naturally occur, no country afforded these conditions so well as the Celestial Empire; and twenty-four years ago the first expedition of Chinese arrived at the island, the number soon reaching such proportions as to render it necessary to establish rules for its regulation, as was done by royal order of 22d March, 1854. By this decree colonists were permitted to become domiciled in the country after the expiration of their contracts, and obtain citizenship papers; provided, always, that the requirements of the laws in force were complied with. The greater number have availed themselves of this privilege, adding to the increase in population and wealth of the island by their industry and the families they formed. But on the 7th July, 1860, a new ordinance was published, and although in the preamble admitted that the introduction of Chinese laborers was, of all other ex-

periments of the same nature, the one least objectionable, by the 7th article made it an essential condition and a special clause to be inserted in every contract, that upon the expiration of his term of service, the laborer should not remain in the island unless he made a new contract of the same character, either as apprentice or journeyman, under the responsibility of a master, or as engaged in agriculture, or as a domestic servant guaranteed by a guardian; otherwise, to leave the island at his own expense, and obliged to do so within two months after the expiration of his contract.

His excellency, duly acknowledging this order, nevertheless inquires whether the object of Asiatic colonization was simply to provide labor for agriculture and industry, or should be considered as a creative element, which, in time, would furnish other labors, and eventually cause slavery to disappear. In the first case, the country itself would advance but little, notwithstanding the increase in its production, because its wealth would rest upon an unstable basis, converting colonization into a simulated servitude, which would impress upon it a most unfavorable character, and without doubt has been the cause of the alarming increase of maroonage, because the Chinese, obliged to remain forever in a state of forced labor or leave the country, losing the happy future which he may have anticipated, it is therefore not strange that there is a great tendency to flee from the power of their masters, and endeavor, by surreptitious means, to remain in the island, as an infinite number have already done, in defiance of the provisions of the ordinances and of the subsequent decrees made for their better execution.

The governor therefore finds, First. That the Chinese, whether fugitive or those who have completed their contracts, obtain surreptitiously the necessary police documents, or make new contracts with fictitious masters, who permit them to do as they please. This is essentially immoral and would not occur, nor, perhaps, any other fraud on the government, if those worthy of the favor were liberally allowed to remain in the island, as decreed by the first ordinance of March 22, 1854. If, notwithstanding, they remain, evading all the existing laws, the reform indicated would remove the evils referred to, and would free the government from difficult positions such as the present, in which compliance with the order is, perhaps, more important than the faults committed. Second. From what has been stated, it can be deduced that there results no benefit to agriculture by the seventh article of the ordinance; and noticing a certain inclination on the part of the Chinese to pass to the United States, it would not be surprising if those who have already completed their contracts, and others, as their terms expire, should prefer to emigrate before recontracting; so that if the object of the seventh article was to obtain, by renewals of engagements, an already acclimated force of laborers without expending a second capital in the acquisition, that measure will prove not to yield very satisfactory results. Between the good and the evil which Asiatic immigration may produce, the choice is not doubtful. There will always be time to correct the latter by perfecting the system, and, regarding the former, the benefit is patent when the United States, Peru, the French Antilles, the island of Mauritius, or Reunion, and other nations and colonies, seek in China laborers for their agricultural and industrial undertakings. The island of Cuba has probably imported the greatest number, and being assuredly the country which has best succeeded in the measure, it is in the condition to perfect the system, and under the imperative necessity of so doing, as slavery cannot be reproduced. For this perfection, but few regulations will suffice, and, in effect, his excellency cites the "Instructions for the application of the ordinance regarding the introduction of Asiatic colonists, their well-behavior and discipline," approved on the 31st December, 1868, which, from the peculiar condition of the country, have not produced the desired results. His excellency recommends these instructions, and especially articles 62, 63, and 64, referring to the renewal of contracts, which contain all the guarantees to be exacted in such cases. The governor also proceeds to notice the royal order of the 27th April last, which was based upon the reports forwarded on the 27th July and 29th August, 1870, to the supreme government by the superior political government of this island, reports which were warranted by the supreme necessity of the preservation of this province, which is the first duty of the government, under which circumstances the laws in force in normal periods cease to rule, and are replaced by what is called in official language discretionary power and reasons of state. The reports were forwarded when no hopes for a speedy pacification were entertained; but the measure could not have been considered of such great urgency, as not until the 27th of last April did the King issue his decree in the sense proposed, that is, suspending immigration and authorizing the superior civil government to cause all those whose terms had expired and had not renewed their contracts, vagabonds, and disturbers of public order, to leave the island. A short time after the publication of the royal order in this city, His Majesty was pleased to authorize the embarkation of colonists in China during the next *monsoon*; and as the royal order does not exact or require that the superior government shall cause the immediate departure from the island of the Chinese who have filled their contracts and not made new ones, nor even of vagabonds and disturbers of public order, regarding all of whom the measure could be adopted without the necessity of consulting the supreme government, as this government has always been authorized to take any steps necessary to preserve order and

repress vagrancy, whoever may be those who deserve punishment; and as the ordinance of 1860, and the instructions of December 31, 1868, amply provide for cases of expiration of contracts and non-renewal, the royal order is reduced to a simple alteration of a part of the 18th article of the ordinance, in that it provides that vagabond Chinese, and others lacking the necessary means, shall be sent away at the expense of the state. Therefore, if deemed expedient, the superior government may disregard the authority given. His excellency then proceeds to consider the reconstruction and reconstitution of the country. He says it is not sufficient alone to triumph over the armed insurrection, but also necessary to conquer the evil ideas of the enemies of our nationality, dictating with this view all measures which may be necessary to return the country to the prosperity in which it was at the outbreak of the insurrection. Though in July or August of last year, the expulsion of the Chinese freedmen and unrecontracted may have been opportune, convenient, and necessary, now that the situation has so completely changed, the execution of the royal decree might bring the country to an economical crisis.

The insurrection is expiring. No one better knows its exact situation than his excellency the superior political governor; that with a few more efforts it will terminate completely, but the destruction and the losses it has occasioned are not easy of immediate repair. The duty, therefore, of reconstructing and reconstituting the country, and setting it in the way of material and moral progress, which leads to the happiness of a people, counsels the adoption of extraordinary measures, which could not have been foreseen by the laws. The government should, therefore, prepare itself, by profound and thoughtful study and meditation on the past and present, to determine the reforms which must be applied; the laws which shall rule and favor the country in its new career, by providing for its future material and moral needs. Restricting himself to material reforms, the governor shows that upon the conclusion of the insurrection, the scarcity of labor will be greater than ever, because of the great number of men who have perished or been rendered incapable, and from the natural distrust to employ those who have been concerned in the insurrection; and, finally, from the greater advantages which will lead many to dedicate themselves to small city or rural occupations, and which will cause the departure of many laborers from this to other departments of the island. All of these causes, as well as the development of lands which had been abandoned, will produce an excessive demand for labor, and will enhance the rates of wages. The crisis which may arise, being one that intimately affects production, the real wealth of Cuba, will be the more deplorable, as it will occur at the very moment when resources will be most necessary to the state and country. It is necessary to provide at once against this evil, and it can be avoided by recurrence to measures already well known and accepted, and to which the country has become accustomed by an experience of twenty-four years.

If the development of lands does not vary in its mode of procedure, Asiatic immigration alone can save the country and restore it to its former splendor.

Whilst free labor can find in manufacturing and mercantile pursuits a comfortable recompense, it is not likely that it would engage in the rude and toilsome tasks of agriculture, for the benefit of a third party; because, so long as the individual has the other resource, he will not consent, by the sweat of his brow, to make land productive which does not belong to him. This has been the great obstacle encountered in all the attempts made, and although there may have been more than one instance where profitable results were obtained, the question should not be regarded as decided from exceptional cases, nor should means which experience has proved useful be imperiled and lost.

In order to fully establish this proposition, in addition to the reasons already given, his excellency says that, from the 3d of June, 1847, the date of the arrival of the first expedition of Chinese which was introduced by the royal "Junta de Fomento," to the present date, there have landed at Havana 109,092 Asiatic colonists, who, at the average price of \$340 per contract, represent a total disbursement of \$37,081,280, or \$1,545,053 yearly. In view of these figures, his excellency exclaims, "And is it possible that within so long a time the country could not discover that it was committing an error in introducing Asiatics? Is it possible that such an immense sum could have been employed inconsiderately by so many proprietors and merchants, intelligent in their respective lines of business? And is not Asiatic colonization sufficiently vouched for, when during the last and present year there have arrived at Havana 2,715 Chinese, whose contracts were immediately transferred, at the price of \$400 each, notwithstanding the unhappy state of the island? And, finally, has there not been formed, within a few months, an association of rich planters, with a million of dollars capital, for the sole object of importing Chinese laborers exclusively for their own estates? And does not the "Alianza & Co.," a respectable company, whose members are among the richest planters and capitalists in the island, continue importing Chinese exclusively?"

Against these undeniable proofs of the utility, in portance, convenience, and necessity of Asiatic immigration, it can only be objected that the Chinese commit crimes; that they disturb public order; have taken part in the insurrection; that many are

vagabonda. All these faults can be corrected according to law by expelling disturbers and vagabonds, severely punishing those who took part in the insurrection ; in short, redoubling vigilance over all, but not closing the door to the principal element of production.

The reconstruction and reconstitution of the country, then, must commence with the introduction of the greatest possible number of laborers, endeavoring to have them, upon the conclusion of their contracts, domiciled in the country.

To them, as to other free men, should be extended the same facilities for the acquisition of property, although it be by annual rent in a certain space of land which will bring with it the necessity of forming a family ; and when the country is covered with these small proprietors, happy and tranquil as are those in the Vuelta Abajo district, then the domination of Spain in Cuba will be established upon indestructible bases.

He who has a family and property to look out for, will not readily throw himself into the hazards of an insurrection against the constituted government. But it was necessary to begin the execution of the royal order of the 27th of April last, in order to ascertain, so to speak, the condition of the Chinese population of Havana, and from this to deduce approximately the general situation of the island. His excellency, therefore, ordered the arrest of the Asiatics, comprised in article 3 of the royal order, whose police documents were suspicious. About fifteen hundred of the seven thousand Chinese residents in Havana have been arrested, and His Excellency was obliged to suspend the execution of the order, because, judging from the reports of the police that the greater part of those in Havana would be included in the number arrested, there were not sufficient accommodations to hold them. Nor did he think it prudent, such a numerous agglomeration as would have resulted, and also because in view of the service in which the greater part of the Asiatics were engaged, it was deemed proper to take into consideration the inconvenience which might ensue to the public, and, besides, the arrest of so large a number restored the full prestige of the government, which exacts obedience and compliance of its mandates, and the Asiatics would therefore be convinced of the firm determination of the government to make them conform to the laws or leave the island. The Asiatics were carried to the depots assigned them, and the patronos or masters, who had fugitive colonists, convoked to examine and identify any that might belong to them within the space of eight days. At the request of a committee of planters, a meeting under the presidency of his excellency took place on the 16th of September, to discuss various points relating to the important question of Asiatics.

His excellency accompanies a copy of the proceedings, which may be noted as containing the previously formed opinion of his excellency regarding the cardinal point of determining, not on the shipment of all the Chinese, but solely of the vagabonds and turbulent characters—requiring the others to conform to the legal conditions as prescribed in the decree of 7th of July, 1860, and the instructions of December 31, 1863, this last requirement, however, only to be carried into effect after the patronos or masters had identified and recovered their fugitive colonists.

The planters were of opinion that it would be advisable to call into Havana all the Chinese arrested in other portions of the island, in order that the patronos might make the inspection at more length, and that renewals of contracts might be made with more ease. This last measure was so serious, however, that the planters instinctively recognized the difficulties in the way and recommended that precautions be taken, as these Chinese are occupied in agricultural labor, and the damage that might be occasioned to those by whom they are employed would prove considerable.

The governor supports this opinion, and resuming the substance of his conscientious communication is of opinion, respecting the continuation of Asiatic immigration, 1st. That it is useful and of absolute necessity, and the measure which offers least disadvantages. 2d. That the introduction of Chinese should be permitted. 3d. That this introduction be carried on within the precepts of the royal order of the 7th of July, 1860, and of the instructions of December 31, 1863, so long as the reconstruction of the country continues, but as soon as the state of affairs shall permit it, immigration shall continue in the open manner dictated by good principles for creating a positive population, for which end it is indispensable that the Asiatic or any other race that comes to replace or aid them, shall have, after the expiration of his contract, (which comprises a sufficient period to determine whether he be useful or prejudicial to society,) the right to become a citizen, if he be within the conditions necessary to obtain this title.

Regarding the execution of the royal order of 27th April last, the political governor understands, 1st, that vagrants and disturbers of public order, and all whose evil antecedents justify their being qualified as dangerous, be made to leave the island ; 2d, that those who voluntarily desire it shall be permitted to renew their contracts, compelling those who refuse to leave the island ; 3d, that the renewal of contracts be made with persons of recognized integrity, both for agricultural and industrial tasks, and for domestic duties, as the existing ordinance permits ; 4th, that said renewals be made in

strict obedience to the dispositions contained in the instructions of December 31, 1866, with special reference to the spirit of articles 46, 47, 48, and 49, as a just guarantee of the rights of the *patrones* against fugitives, and of articles 62, 63, and 64, as a remedy for the greater part of the abuses which are now the subject of correction; and 5th, that these instructions be newly published, reiterating the necessity for their execution, and presenting the orders necessary to carry into effect the distribution of Asiatics among the *patrones* or masters with all the requisites prescribed in said instructions.

The political governor upon recommending to his excellency the necessity and convenience of resolving the points submitted to him, and those referred to in the proceedings of the meeting of planters, he cannot refrain from urging on him the importance of hearing the authoritative opinion of those gentlemen, both in reference to the practical application of the said instructions of 31st December, 1866, and the reforms which this requires, and to the report which is prescribed in article 5 of the royal order of 27th April last, in the security that their intelligence and experience will not fail to be useful in determining the resolutions which shall be adopted.

Such is, in extract, the communication of his excellency the political governor. The question of Asiatic colonization is treated in a masterly manner, under all its aspects, and with an abundance of data, reasons and doctrines, which bring to the mind a conviction of the excellence of measures he proposes. This committee hopes that the most excellent administrative council will report favorably upon the petition presented by the political governor, especially now that the entire island, being enlightened by this publication, will recognize the justice with which the government has proceeded, and its interest in the welfare of the country.

THE COMMITTEE.

HAVANA, *October 10, 1871.*

No. 49.

Mr. Low to Mr. Fish.

No. 85.] SHANGHAI, *September 7, 1871.* (Received October 23.)

SIR: The proposition to return the surplus indemnity fund to the Chinese government having failed to receive the sanction of Congress, I now have the honor to submit some observations touching its proper disposition.

That the Chinese have no legal right to demand the return of this surplus, is beyond question, but whether they are not equitably entitled to it is not so clear; and although Congress does not see fit to give back the money absolutely, it may not be unwilling to appropriate the proceeds in a manner which might, and probably would, prove of greater advantage to the Chinese than the original proposition would, had it been agreed to. The plan I have to propose will, I think, accomplish such a result, and will, at the same time, secure corresponding advantages to the United States.

I would suggest that a sufficient sum thereof be appropriated for the purchase or erection of suitable buildings for a school, in which the natives should be taught our language, and our own people instructed in Chinese, and that the sum remaining should continue as it now is, invested in the United States, the interest of which to be devoted to the maintenance of such a school.

Such an institution could not, in the beginning, be denominated a university or college, nor would it be convenient or wise to confer upon the teachers of it high-sounding titles. Nor would it be necessary to pay the instructors extravagant salaries. Competent teachers could be ob-

tained at moderate cost, and the total annual expense need not be large. If a successful beginning be made, and the school should become popular, it is not unlikely that the Chinese would themselves add to its income in order to extend its advantages. It should be located in Peking, under the immediate supervision of the legation, where it could be seen and known by the high Chinese officials, and where the pure language is spoken and taught.

If I am correctly informed, the income arising from the remainder, after deducting the amount necessary to provide suitable buildings, would be between \$15,000 and \$20,000 annually. With this income a school, such as is proposed, could be conducted successfully.

The necessity for providing suitable quarters for the legation in Peking was fully stated in a dispatch written in August or September, 1870, to which I again most respectfully beg to call your attention. Were the legation at present occupied purchased, the grounds belonging to it would be ample for all purposes, and the buildings could be extended at small cost to accommodate the school, in addition to the proper accommodation of the minister. Combining the two in this way would make the whole an economical expenditure; and the school, if attached to the legation, would command more attention and respect from the Chinese than if located elsewhere.

If the foregoing suggestions be thought favorably of by the Department, and Congress be disposed to act upon them, I would venture to suggest that sufficient of the original sum, and the interest of the remainder, be appropriated and placed in the hands of the Secretary of State for the purpose of carrying the plan into effect. The arrangement of the plan, and its details, should be left with the President or the Secretary of State, who would be able to gather the information necessary to an intelligent and wise decision regarding its organization and management, and the whole thing could be put in successful operation without any great delay. If required, I would furnish full and minute particulars, of which the foregoing is merely an outline.

I am profoundly impressed as to the advantages likely to result from such a scheme if properly inaugurated and judiciously managed, and I may be pardoned if I venture to call the special attention of the Department to the matter with a view to bringing it before Congress for its consideration.

I have, &c.,

FREDERICK F. LOW.

No. 50.

Mr. Low to Mr. Fish.

No. 87.] SHANGHAI, September 9, 1871. (Received Oct. 23.)

SIR: When the consul general was last in Washington he made to the Department several suggestions with a view to increasing the efficiency of the consular system in China. It is understood that one of his recommendations was, that a salaried consul be provided for Tien-tsin in lieu of Chinkiang. The latter port, he thought, might be attached to Shanghai, with a consular agent to do the local business. His recommendations failed, I believe, to receive the sanction of Congress.

The consul now at Tien-tsin is a British subject. He was appointed some years since because he was the only competent person to be found who would accept the office for the emoluments; and although the duties are performed in a satisfactory manner, the fact of such an important post being filled by a foreigner is a subject of unfavorable criticism and complaint by our own citizens.

Tien-tsin is situated at the head of steam and ship navigation on the Petho River. It is the port nearest the capital, and the official residence of the viceroy of the province of Chihli, the superintendents of trade for the three northern ports, and other high Chinese officials. It is regarded by the Chinese as the "gate of the empire." An American line of steamers do a large part of the carrying trade to and from Tien-tsin. Aside from this our commercial interests are not large. The consul resident there is, however, called upon to transact a large amount of judicial business arising out of collisions, loss and damage of cargo, &c., &c. The judicial business of that consulate is, I think, larger than any other, Shanghai only excepted. In addition to the legitimate business the consul at Tien-tsin is the medium for the transmission of all the dispatches and mail-matter to and from Peking; and it is through him that all communications between the legation and the high officials residing at Tien-sin have to pass. These have been, and are likely to be, numerous and of the highest importance. The duties of the consul at that port are important, requiring the service of a man of undoubted ability, integrity, tact, and discretion.

Some months since Eli T. Sheppard, esq., was appointed and confirmed as consul to Tien-tsin.

Mr. Sheppard is now consul at Chinkiang, and is one of the most acceptable officers we have in China. It is hardly to be expected that he will be willing to exchange Chinkiang, where he has a fixed salary, for Tien-tsin, where there is no salary, and where the fees are inconsiderable. Nor is it reasonable to suppose that Mr. Sheppard would, in any event, accept that office, because the fees will not afford him a support.

In view of these considerations I would most respectfully, but urgently, recommend that Tien-tsin be made a salaried consulate, and also that suitable provision be made for a competent interpreter. The salary should not be less than \$3,500 per annum.

If Congress should hesitate to increase, in this way, the consular expenses, it might be advisable to omit the usual appropriation for Chinkiang, thus placing that port under the supervision of the consul general at Shanghai. This might, I think, be done without any serious detriment to the public interests.

I have, &c.,

FREDERICK F. LOW.

COLOMBIA.

CORRESPONDENCE BETWEEN THE DEPARTMENT OF STATE AND THE
LEGATION OF THE UNITED STATES AT BOGOTA.

No. 51.

Mr. Fish to Mr. Hurlbut.

No. 31.]

DEPARTMENT OF STATE,
Washington, December 14, 1870.

SIR: I inclose with this a transcript of a dispatch of the 28th ultimo, from Mr. O. M. Long, United States consul at Panama, stating that his official proceedings relative to the estate of J. J. Landerer, a deceased naturalized American citizen, had been interfered with by the judge of the civil department of Panama in contravention of the stipulations of the consular convention between the United States and New Granada. You are instructed to lay the facts as given in the dispatch of Mr. Long before the Colombian government, and remonstrate against the course pursued by the local authority in interfering with the administration of the estates of decedents, as in the case adverted to.

I am, &c.,

HAMILTON FISH.

No. 52.

Mr. Fish to Mr. Hurlbut.

No. 37.]

DEPARTMENT OF STATE,
Washington, April 10, 1871.

SIR: I transmit a copy of a letter of the 6th instant, addressed to this Department by the Acting Comptroller of the Treasury, and of the accompanying statement of the account between this Government and that of the United States of Colombia, with reference to the awards of the joint commission under the conventions of the 10th of September, 1857, and 10th of February, 1864, a copy of which is also herewith transmitted. Pursuant to the account adverted to there was due to this Government by that of Colombia, on the 31st of December last, the sum of \$157,372 48. It appears that the last payment was made by that government on the 22d of June, 1868. It is presumed that the account is stated in strict conformity to the terms of payment stipulated in Article III of the convention of 1857. Hence the charge for interest on deferred payments, to which it cannot be anticipated that that government will object. You will mention the subject to the Colombian minister for foreign affairs, and may leave with him a copy of the account. You will say to him that it is desirable that the balance due by Colombia should be paid as soon as may be convenient, especially as we long ago advanced to the claimants the sums awarded to them respectively.

I am, &c.,

HAMILTON FISH.

No. 53.

Mr. Fish to Mr. Hurlbut.

No. 43.]

DEPARTMENT OF STATE,

Washington, June 21, 1871.

SIR: I transmit a copy of dispatch No. 102, of the 30th ultimo, addressed to this Department by Owen M. Long, esq., consul of the United States at Panama. It relates to recent revolutionary events in that state, and particularly to the seizure and detention of the steamer Montijo, belonging to citizens of the United States, by Thomas Herrera, the leader of the faction in opposition to the Colombian authorities. As the seizure is shown to have taken place before there was any organization of that faction, the members cannot, it is presumed, even under the constitution of Colombia, have been entitled to the rights of belligerents. The seizure was, therefore, a piratical act, for which it is expected that the authors will be held to be judicially accountable. The treaty stipulates that no such seizure shall be made, even by the Colombian authorities, without just compensation to the aggrieved parties. When, therefore, such an act is committed in the waters of that republic by unauthorized persons, the obligation of that government to make amends therefor may be regarded as unquestionable. You will accordingly apply for reparation in this case.

I am, &c.,

HAMILTON FISH.

Mr. Long to Mr. Hunter.

No. 102.]

UNITED STATES CONSULATE,

Panama, May 30, 1871.

SIR: Since my last, No. 101, the revolutionary troubles in this state have all quieted down, and peace once more prevails in all her borders. President Comoro, with a magnanimity unusual in Spanish America, and with a force three times as great as his opponents, has consented to an arrangement with Herrera, by which each party bears off some of the spoils of victory, and the citizens, including foreign merchants, have to foot the bill. After my return from my visit to Captain Selfridge, Colonel Ferrero, the commander of the Colombian or national troops in this state, determined he would send down to David a peace commission to obtain the release of two officers of the Pichincha battalion, stationed in Panama, and who had been captured by Herrera when he made the attempt and captured the suite of the President. I took the opportunity of forwarding the inclosed No. 1 to Captain Stevens, and under its cover the inclosed No. 2 to Herrera; in inclosures Nos. 3 and 4 you will find his reply. Inclosure No. 5 is the sworn statement of Mr. John Schuber, which completely refutes Herrera's charge of Mr. Schuber being in sympathy with the rebellion.

Herrera's statements also of the Montijo having no papers to designate her nationality on board at the time of her capture are false, as the captain had with him a receipt for his register, and other papers belonging to the boat, said papers being in my office in Panama. The Montijo always, except when going out of the jurisdiction of this consulate, deposited her papers in this office and took my receipt for them. As the Montijo carried the mails and dispatches gratuitously between this port and David, she had permission from the state of Panama to run into all her ports and navigate the waters without the payment of any fees whatever. His charge as to her having lost her nationality in her previous complicity with rebellions in this state cannot be sustained, as Mr. Schuber had a perfect right to charter his vessel to any party. When engaged in such contracts he, however, lost his protection as an American or neutral vessel. This Mr. Schuber well knew, and he chose to run the risk. The recent case bears no analogy to the first. In the recent case Mr. John Schuber most positively refused, while in David, to charter his vessel to Herrera; he delayed his departure several days, and supposed that their intentions had been abandoned, when he

aluded to leave for Panama. My entire action in this case has been based upon the following statements of facts, which are substantiated by the affidavits inclosed. I contend that, even allowing these adventurers the privileges of belligerents, they did not possess these rights till after some organization was made by which they became a power recognized by international law.

The constitution of Colombia, very unwisely, I think, recognizes the right of the citizens of the several states to rebel at any time and throw off the authority of the old state and organize a new one by force of arms. But does that right give any authority to a few daring and adventurous spirits to collect a band or marauders and appropriate private property to their own uses? If that transaction had taken place in Panama, they could, with equal right, have walked into the office of the Pacific Mail Steamship Company, or into that of the Royal Mail Company, or the Pacific Steam Navigation Company's office, and have demanded the treasure that is often found there, it being a very necessary sinew of war.

Mr. Schuber's boat was captured on the 6th of April, 1871, as proved in all the affidavits. Herrera, in his letter to me, says that the provisional government was not organized in David till the 8th of April, two days afterwards, thus showing conclusively that, if he had rights after the 8th of April, in consequence of the organization of his government, he could have had no rights before that except what brute force gave him. I so represented the facts of the case to Commander Selfridge, and he, I thought, entirely concurred with me in my view of the case; but in consequence of the near completion of his explorations, did not deem it advisable to withdraw the *Resaca* from the Luján River, being apprehensive that if he did so he would not be able to resume his duties on account of the advent of the rainy season.

Revolutions in this entire country are gotten up in the same way; they are nothing but speculations upon the part of some daring and needy adventurers; and as they have nothing to lose and everything to gain, they commence by collecting a few followers, and then seize upon neutral property and levy heavy contributions upon money and subsistence of the inhabitants who have any means. If these men were once taught that such occurrences and spoliations upon American property would not be tolerated, but that all engaged in such piratical acts would be punished with the pains and penalties attached to such crimes, it would have a most excellent effect in checking that morbid tendency to get up these periodical disturbances.

I have on all occasions cautioned our American citizens to abstain from every act which might be considered as in violation of our neutrality.

When I visited Commander Selfridge I bore to him authority from President Comoro, and also from Colonel Ferrero, commanding the national forces in this state, and both acting as agents of the Colombian government, to visit any of the bays, harbors, and rivers in this state, in search of the Montijo, and to land forces, if necessary, to recapture her and restore her to her owners.

The Montijo has not yet been delivered up to the Messrs. Schubers, but was dispatched by President Comoro to convey the rebel troops back to David, in spite of representations made by me to him, based upon the affidavits of Captain Saunders and Chief Engineer Howard, which are herewith inclosed, (inclosures Nos. 6, 7, and 8.)

I have the honor to be, your obedient servant,

OWEN M. LONG,
United States Consul.

Inclosures

- No. 1. Letter to Captain Stevens.
- No. 2. Letter to Mr. Herrera.
- No. 3. Letter from Mr. Herrera.
- No. 4. Letter from Mr. Herrera.
- No. 5. Affidavit of John Schuber.
- No. 6. Affidavit of Robert Howard.
- No. 7. Affidavit of Mrs. Hannah E. Saunders.
- No. 8. Affidavit of Captain Saunders.

No. 1.

UNITED STATES CONSULATE,
Panama, May 3, 1871.

To CAPTAIN STEVENS,

Of the Panama Railroad Company's steamer Winchester:

SIR: Understanding that the vessel which you command, belonging to the Panama Railroad Company, is about to embark for the ports in the upper part of this State,

with peace commissioners and officers of the Colombian government, I would take this occasion to advise you of the delicate position you occupy, and warn you against any infraction of neutrality in the important domestic revolution which has recently occurred in this State. Bearing the flag of the United States, you will do all in your power to secure a cessation of hostilities, and, if it be possible, to secure a restoration to the Messrs. Schuber & Bro. of their steamer Montijo, which has been piratically seized, and is now in the possession of the revolutionary powers in the department of Chiriquí.

You are also empowered to inform those persons who now so unjustly detain and keep the Montijo from her proper owners, that if they do not immediately release the said vessel, that all the available forces of the United States in these waters will be employed in the recapture of the said steamer Montijo, and to all those found in resistance the pains and penalties of piracy will be inflicted.

In testimony whereof I have hereto set my hand and affixed the seal of this consulate at Panama, this day and date above written.

[SEAL.]

OWEN M. LONG,
United States Consul.

UNITED STATES CONSULATE,
Panama, May 29, 1871.

I, Owen M. Long, consul of the United States in and for the port of Panama and its dependencies, do certify that the foregoing is a true and literal copy of a letter from myself to Captain Stevens, forwarded to him on the 3d day of May, A. D. 1871, and recorded in my office in "book of letters," sent as No.—.

In testimony whereof I have hereto set my hand and affixed the seal of the consulate, at Panama, day and date above written.

[SEAL.]

OWEN M. LONG,
United States Consul.

No. 2.

UNITED STATES CONSULATE, *Panama, May 3, 1871.*

To Thomas Herrera and all others whom it may concern :

Mr. Henry Schuber, of the firm of H. Schuber & Bro., of this city, both American citizens and owners of the steamer Montijo, an American vessel, duly registered in the proper office in New York, and whose papers are on file in this office, has entered his protest in the office of the United States consulate at Panama, that his vessel, the Montijo, in the lawful prosecution of her return trip from David to Panama, was captured and taken possession of by you and others, on the 6th day of April last, and that the said vessel is still detained and kept by you from his lawful possession and use: I therefore, as consul of the United States, do, in the name of the United States, demand and require the immediate restoration of the American steamer Montijo to her lawful owners, the Messrs. Schuber and Bro., under the pains and penalties usually inflicted upon those guilty of piratical acts.

In testimony whereof I have hereto subscribed my name and affixed the seal of the consulate at Panama, day and date above written.

[SEAL.]

OWEN M. LONG,
United States Consul.

I, Owen M. Long, consul of the United States at Panama, do hereby certify that the letter on the foregoing pages, written by myself, and forwarded to Thomas Herrera and all others whom it may concern, is a true and genuine copy from the original, recorded in my office as No.—, in book of letters sent.

In testimony whereof I have hereunto set my hand and affixed the seal of the consulate at Panama, this 29th day of May, A. D. 1871, and the Independence of the United States the ninety-fifth.

[SEAL.]

OWEN M. LONG,
United States Consul.

No. 3.

United States of Colombia, executive power of the State of Panama, provisional government, presidency of the state, department of Coele, No. 2.

HEADQUARTERS AT RIVER HATO, *May 5, 1871.*

Mr. Consul of the United States of America :

SIR: In addressing you for the first time I am pleased at being able to inform you that the revolution which took place in the City of David on the 8th day of April last,

and at the head of which the will of my fellow-citizens has placed me, now possesses the departments of Chiriqui, Beraguas, Los Santos, and Coele, where the populace acknowledge the new authorities and give them every class of assistance.

I am equally pleased to be able to inform you that you have nothing to fear for the security of your subjects, because in all places where the new government is recognized they enjoy, as foreigners, all the guarantees to which they have the right as such.

I expect soon to be in possession of the whole state, for I possess sufficient force to subdue the two departments which yet remain under the yoke of the few soldiers of the government which to-day succumbs before the uniform opinion of all the inhabitants of the Isthmus; and meanwhile I promise myself that the friendly relations will not suffer the least alteration which have existed up to now between the Government which you represent and that of our country.

With sentiments of the most distinguished consideration, Mr. Consul, I subscribe myself your attentive servant,

HERRERA.

UNITED STATES CONSULATE,
Panama, May 29, 1871.

I, Owen M. Long, consul of the United States at Panama, certify that the above letter is a true and correct translation of the original in Spanish, as recorded in my office in book of letters received.

In testimony whereof I have hereto set my hand and affixed the seal of the consulate at Panama, this 29th day of May, A. D. 1871.

[SEAL]

OWEN M. LONG,
United States Consul.

No. 4.

United States of Colombia, executive power of the sovereign state of Panama, provisional government, presidency of the state, department of Coele No. 3.

Mr. Consul of the United States of America at Panama:

SIR: I have the honor to address you for the purpose of stating that I have seen with surprise in *La Estrella de Panama* of the 27th of April, of this year, that Commander Selfridge, commander of North American naval forces, is disposed to personally interfere with them, and to rescue (ransom) the steamer Montijo, and treat as pirates those who hold her, on the supposition that they have outraged the flag of the United States of America. You will allow me to declare the provisional government has never intended to outrage the North American flag, nor that of any other friendly nation, and if it has taken into its service the steamer Montijo, it has been for the following reasons:

1st. That this steamer, although she carries the North American flag, has no register or other document which proves her nationality.

2d. That, although this steamer were North American, she has lost her neutral character, because she has previously mixed in our political disputes.

3d. That the government is disposed, as it has offered to Mr. John Schüber, to pay for all the services the Montijo may render it.

To this may be added the fact that Mr. John Schuber recognizes and is in harmony with the provisional government, and that this has given him every guarantee he has solicited. I expect that the consul to whom I have the honor to address this will take into consideration the foregoing reasons, and that he will explain to Commander Selfridge that he has no right to interfere with the forces at his command to rescue the steamer Montijo, for all intervention he may exercise in favor of one of the belligerents must be considered as a violation of international law.

Moreover, Mr. Consul, I must observe that the intervention of North American forces in the internal questions of our country will prolong the war, to the prejudice of foreigners.

The assistance which is wished to be given by Captain Selfridge to a government which cannot count upon public opinion and which seeks to sustain itself by foreign forces, although that to-day will not influence the result, will still be a shame for him who begs that assistance, which ought not to be given by the representative of the nation which is the most liberal and just on the face of the globe.

I am, &c.,

HERRERA.

I, Owen M. Long, United States Consul for Panama and its dependencies, certify that the above is a true and correct copy of the translation of the letter received by me in Spanish from Herrera, word for word and figure for figure, as recorded in my book of letters received in my office.

In testimony whereof I have hereto set my hand and attached the seal of the consulate at Panama this 29th day of May, A. D. 1871.

[SEAL.]

OWEN M. LONG,
United States Consul.

No. 5.

I, John Schuber, of the firm of H. Schuber & Bro., of Panama, being duly sworn by the United States consul, at his office in Panama, on this 23d day of May, A. D. 1871, depose and say as follows, to wit:

My name is John Schuber; am 38 years of age; am an American citizen and a partner in the house of H. Schuber & Bro.; we are the owners of the steamship Montijo, running between the ports of Panama and David. Said steamer is an American vessel, duly registered in the proper office in the city of New York. I was on board of her when she was captured by Thomas Herrera and his party. Before she sailed from David for Panama, Thomas Herrera and Domingo Dias met me in the streets of David, and proposed to hire or charter the steamer Montijo; I told them that I would not, under any circumstances, charter her to any party contemplating a political revolution, and that that was their object, I protested against chartering her to them or any other person for that purpose. I told them that I could not and would not do so for any money that they could pay me. This conversation was at night, on the 2d, 3d, or 4th of April.

The day after this conversation, Thomas Herrera came to me again and repeated the proposition. He told me that he would not take the steamer from me without my consent. On the morning of the 5th, we took on board our cattle and passengers, the general cargo having been brought on board before the 5th of April. We sailed from David that evening, bound for the city of Panama. We had a full passenger list, among whom were Thomas Herrera and Domingo Dias. I supposed that they were bound for Panama, and did not anticipate any attempt on their part to capture the boat. The Montijo sailed from David under the command of Captain James H. Saunders. We went down the river till near Boca Chico, where we were compelled to anchor and wait for the tide. As soon as the tide served we got up anchor, and were just getting under way, when the chief engineer reported to the captain that the tubes or flues in his boiler had given out, and we accordingly again cast our anchor and repaired our flues. As soon as the tide served the next day we got under way, and proceeded as far as the mouth of the river, when the engineer reported that another of the tubes was leaking, and that it would be dangerous to go to sea without repairing it. We again cast anchor, and at 4 o'clock p. m., on the 6th of April, I being on deck forward, heard some of the passengers say a vessel was approaching us. As soon as Thomas Herrera saw the vessel, he came to me and asked me to hoist a signal, so that the vessel could come in. I refused to do so, and told him that I was not captain of the ship, and that he must go to the captain for any such orders. He went to the captain, and the captain came to me and said that they wanted him to hoist a signal, which was one of a very unusual character, namely, the ensign at the fore. He said he wanted it done so that the schooner might understand it and come in. I then told Captain Saunders that he was captain of the ship, and to do his duty. Thomas Herrera and party then demanded of the captain the flag, which he positively refused to give up. They then told him that if he did not give it up they would take it by force, which they proceeded to do with drawn revolvers, threatening the captain's life. By force they took the flag from him and hoisted it at the fore. The schooner then immediately came in and anchored close to us. Manuel Dias and Colonel Paris then came on board from the schooner and joined the party that had taken possession of the Montijo.

They then ordered the captain to have steam ready next morning at four o'clock. At four o'clock next morning we proceeded outside to hail a schooner that was in sight. We then returned to the mouth of the river and took the schooner that lay by us the night before in tow, and proceeded up the river some twelve or fifteen miles and came to anchor. The same day we took the arms and ammunition which were on board the schooner on board of the steamer. The boats of the steamer and the schooner were then sent up the stream some distance, and returned with some one hundred and twenty men, who were all embarked on board of the steamer. Some of those men that came on board had arms, others not; the unarmed men were all supplied. About three o'clock that evening we proceeded up to the port of Pedrigal, the port of David. All the men and officers on board of the steamer, with the exception of a guard of two officers and some ten or fifteen men, were disembarked and proceeded to the city of

David, which they captured without much opposition. As soon as the men were disembarked to take David, the captain was ordered to take the ship down the river near the mouth of the Chiriqui, where we came to anchor; he was ordered to remain there till further orders. Early in the morning of the 8th of April the captain was ordered to bring the boat up to Mangota, her usual port. We arrived there about five o'clock that evening, when I left the ship and went to David.

The cattle were now all landed, and the passengers who had been on board all this time, were now permitted to go ashore. After the town of David was captured, and not till then, was there any provisional government established or proclaimed by Thomas Herrera or any other persons. When we left David for Panama the state officers belonging to the government of President Comoro were in office, and forwarded their usual dispatches to the capital.

The Montijo was captured on the evening of the 6th of April; the city of David was captured on the night of the 7th of April, 1871. Next morning, the 8th, the provisional government was proclaimed in David, with Thomas Herrera as provisional president, and Domingo Obaldia was installed as prefect of the department of Chiriqui. We were all considered as prisoners, and none of us, including the captain and crew, were permitted to leave the boat till after the capture of David, when I, with the passengers, were permitted to go ashore. I had permission to leave David for Sona; here I was detained and prevented from leaving till about the 8th day of May, when I chartered a schooner and had to leave the place secretly. I reached Panama on the 17th day of May, 1871.

JOHN SCHUBER.

Sworn and subscribed to before me, Owen M. Long, United States consul at Panama, this 23d day of May, 1871, and the Independence of the United States the ninety-fifth.

OWEN M. LONG,
United States Consul.

UNITED STATES CONSULATE, PANAMA, May 27, 1871.

I, Owen M. Long, consul of the United States at Panama, certify that the above statement of facts by Mr. John Schuber is a true and correct copy of the original in my office, and recorded on pages 23, 24, 25, and 26, in the miscellaneous record book.

In testimony whereof I have hereunto set my hand and attached my seal of office, at Panama, this 27th day of May, A. D. 1871, and the year of Independence of the United States the ninety-fifth.

[SEAL.]

OWEN M. LONG,
United States Consul.

No. 6.

Personally appeared before me at my office in Panama, on the 22d day of May, A. D. 1871, Robert Howard, chief engineer of the steamship Montijo, who, being duly sworn, makes the following statement of facts, to which he has subscribed his name in my presence:

My name is Robert Howard, 45 years of age; I have been chief engineer for the Montijo for the last 14 months; was acting as such at the time of her capture by the revolutionists at David. Have been on her ever since. She was captured on the 6th of April last, and has been under steam ever since; the engines have been very much injured in consequence of the want of proper oil; the boilers are in a very unfit condition to go to sea, and I consider the attempt to do so extremely hazardous to the safety of the boat and all on board, and, as chief engineer, I protest against being required to raise steam or set the engines in motion until her boilers and engines have been repaired.

ROBERT HOWARD.

Sworn to in presence of—

OWEN M. LONG,
United States Consul.
LUCIUS CROCKER.

I, Owen M. Long, United States consul in and for Panama, do hereby certify that the above is a true and correct copy of the affidavit of Robert Howard, chief engineer of the steamship Montiji, as recorded on page 18 of miscellaneous record book in my office in Panama.

In testimony whereof I have hereto set my hand and attached my seal of office at Panama, this 29th day of May, A. D. 1871, and the Independence of the United States the ninety-fifth.

[SEAL.]

OWEN M. LONG,
United States Consul.

No. 7.

UNITED STATES CONSULATE,
Panama, May 16, 1871.

Personally appeared before me Owen M. Long, United States consul for Panama, at my office, in Panama, day and date above written, Mrs. Hannah Elizabeth Saunders, wife of Captain James H. Saunders, of the American steamer Montijo, the property of Messrs. Henry Schuber & Bro., American citizens now doing business in Panama, who, after being duly sworn to tell the truth, the whole truth, and nothing but the truth, depose and saith as follows: I am the wife of Captain James H. Saunders, of the Montijo; I went on board of the Montijo at David, on the 5th of April, with the intention of coming to Panama. We left David on the evening of the 5th, and anchored, on account of the tide, at Boca St. Pedro, in the David River. Next morning, the 6th, we got up steam, raised our anchors, and proceeded on our voyage. We had hardly gone a ship's length before two of the flues gave out and we were forced to cast our anchors again. In about four hours we succeeded in repairing the flues, so as to start for Boca Chica, the mouth of David River, where we arrived between 12 and 1 o'clock. At this point several more tubes in our boilers gave out, which required some three or four hours to repair. We were making preparations to go to sea when a schooner hove in sight. As soon as the schooner made its appearance, Thomas Herrera and Domingo Dias, with fifteen or twenty other persons who had embarked as passengers from David to Panama, suddenly and without any warning approached the captain and ordered him to hoist his United States flag at the fore. They were all well armed and presented their revolvers at him, and threatened to shoot him if he did not so hoist it. They forcibly took the flag, and he made an effort to retake it, but was met by drawn revolvers and machetes.

The flag was hoisted by them at the fore, when the schooner approached and was towed up the river some little distance, when the arms and ammunition on board of the schooner were transferred to the Montijo, after which the Montijo left and returned to David. She then disembarked the troops which she had received on board while lying in the river, and after she had got the arms and ammunition from the schooner. After sending the troops ashore, she proceeded down the river a short distance and remained there till next afternoon's tide, which was the 8th day of April. As soon as the tide served they came up the river to their old landing, and put all the cattle, arms, and ammunition ashore. The said cattle were embarked at David for Panama. We supposed that we would make a good trip, as she was full of passengers and freight. Mr. John Schuber, one of the owners of the Montijo, was on board, and refused to acquiesce in the seizure of the flag and boat, and, with Captain Saunders, protested against their acts. From the hoisting of the flag at the fore, they took possession of the ship, and she still remains in their possession till the present time.

Neither Herrera, or Dias, or any other person or persons ever proclaimed themselves as revolutionists, or as being in arms against the government of Panama, till after the capture of the Montijo. Captain Saunders and the entire crew of the Montijo were taken prisoners and have been forcibly detained on board till this present writing. They refused me the privilege of coming ashore here, but I insisted upon it, and, after much remonstrance, I was sent off from Toboga in a small-boat and reached Flaneca in time to take the tow-boat Panama to Panama. From the time of the capture of the Montijo till the present, Herrera and Diaz have been apprehensive of a rescue by the United States ship Resaca, and have always kept her in shallow water or up in small rivers to keep her out of the reach of the Resaca.

HANNAH E. SAUNDERS.

Witnesses: OWEN M. LONG,
United States Consul.

LUCIUS CROOKER.

Sworn and subscribed to before me, at my office in Panama, day and date above written. In testimony whereof I have hereto set my hand and attached my seal of office this day and date above written.

[SEAL.]

OWEN M. LONG,
United States Consul.

Recorded in miscellaneous record book, page 27.

No. 8.

Personally appeared before me at my office in Panama, this 22d day of May, A. D. 1871, James H. Saunders, master of the American steamer Montijo of New York, who, being duly sworn, has made and subscribed to the following statement of facts, viz:

My name is James H. Saunders, master of the steamer Montijo, an American vessel registered in the port of New York. I was in command on the 6th day of April, 1871, when she was captured by Thomas Herrera and others. We left David on the 5th of April last, bound for Panama, and had proceeded as far as Boca Chica, at the

mouth of the river David, when, in consequence of the bursting of the tubes in the boiler, we could not proceed to sea, and were compelled to cast anchor till our boilers were repaired. Before we were able to make the necessary repairs, at about 4½ o'clock, p. m., Thomas Herrera, with some nine others, who all of them had taken passage for Panama, having recognized a signal made by a schooner approaching us from the south-west, suddenly presented themselves to me, and with arms in their hands required me to hoist the American flag at the fore. This I refused to do, supposing it was a signal for the schooner to attack and capture the Montijo, never for a moment supposing that the party on board had any idea of capturing us.

I refused to do such an unusual thing, and told them so, at which they said they would hoist it themselves, and proceeded, forcibly and violently, to remove the flag from my possession. My life was threatened by them, and I was unwillingly forced to submit to have the flag hoisted at the fore. I was then told by Thomas Herrera that I must consider the Montijo as captured and in possession of themselves, and that I must also consider myself and crew as prisoners, and that they would not suffer us to leave or abandon the boat.

At the time of capture we had on board a full cargo, consisting of cattle, freight, and passengers, and were expecting to make a profitable trip.

The schooner had come close alongside of us and cast her anchor. On the evening of the 6th, Mr. Herrera ordered me to have steam up and be ready to sail by 4 o'clock next morning, the 7th of April. At 4 o'clock next morning we left our anchorage and proceeded out of the mouth of the river to sea, and hailed a small schooner, when we returned to our former anchorage and took in tow the schooner which had been lying alongside us.

We then took from the schooner all the arms and ammunition on board of said schooner. While we were engaged in taking on board the arms and ammunition from the schooner, Thomas Herrera ordered all the boats up the river, and in a short time the boats returned to the Montijo, filled with soldiers. They made some three trips up the river, returning each time with their boats filled with men, who were all put on board of the Montijo.

At 3 o'clock p. m. on the 7th of April, 1871, I was ordered to leave for Petrigall, the port of David, where we arrived at 5 o'clock p. m. The troops, with the exception of two officers and fifteen men, were then disembarked. These two officers and fifteen men were left on board as a guard. I was then ordered, by them, down the river about fifteen miles, where we came to anchor and lay till about 4 o'clock p. m. of the 8th. That morning, at 9 o'clock a. m., I received orders to take the boat to Mangota, the regular landing port of the boat. We arrived there at 5 o'clock p. m. the same day. About thirty men came on board and relieved the guard; we then hauled into the dock and landed all the cattle which had been kept on board till this time. The next morning all the arms and ammunition were landed. We lay here till the morning of the 12th of April. The guard on board were now relieved by some seventy-five or eighty men, in command of one Colonel Franchori and other officers. At 9.30 a. m. on the 12th, I was ordered to go to sea; after getting out to sea, I was ordered to proceed to Munché, the port of Los Tablas, where we arrived at 10 o'clock a. m. of the 13th. I now learned that the party which captured the steamer was in revolution against the regular and constitutional government, and that their object in going to Los Tablas was to capture the president, General Comoro.

When the steamer was first captured and taken possession of I protested against all such acts, and told them that I would do nothing except upon compulsion; to this they replied that was easy enough to do, and warned me against any refusal to do their orders. We reached Los Tablas on the 13th at 10 o'clock a. m. They then sent spies up to Los Tablas and found that the president, Comoro, was expected there that night. At 6 o'clock p. m. on the 13th, the troops on board were landed, leaving a guard of fifteen men on board, with one officer, who had charge of the boat. From this till the 22d day of May, 1871, I was forcibly detained on board and allowed no communication whatever with shore. At 10.30 o'clock a. m., the 22d day of May, I left and came ashore to make this my statement of the facts in this case.

The ship at this time was lying about five miles out from Panama. When I left the officer in charge protested against my leaving the ship; I would also give it as my decided opinion that in the present condition of the Montijo she is entirely unseaworthy, her boilers requiring repairs, and her machinery needing also many repairs. Sending her to sea in her present condition is a great risk.

J. H. SAUNDERS, *Master.*

Signed in presence of:
OWEN M. LONG,
United States Consul.
LUCIUS CROOKER.

Sworn and subscribed to before me, this 22d day of May, A. D. 1871, at my office in Panama, and the Independence of the United States the 95th.

OWEN M. LONG,
United States Consul.

UNITED STATES CONSULATE,
Panama, May 30, 1871.

I, Owen M. Long, consul of the United States in and for Panama, that the above affidavit or statement of facts by Captain Saunders is a true and correct of the original, as recorded in my book of miscellaneous records, on pages 19, 20, 21, and 22.

In testimony whereof I have hereunto set my hand and affixed the seal of the consulate at Panama, day and date above written.

[SEAL.]

OWEN M. LONG,
United States Consul.

No. 54.

Mr. Hurlbut to Mr. Fish.

No. 53.]

LEGATION OF THE UNITED STATES,
Bogota, July 3, 1871. (Received July 31.)

SIR: I have just received a communication from Señor Zapata, in which he informs me that he has made application through the Colombian minister in Washington for an extension of time on the balance of the Panama claim. His proposal is to pay in equal annual installments, to be complete in four years. This government is at present bankrupt. Their whole available revenue is about \$800,000; of this they have lost \$250,000 by the failure of the Panama Railroad. They have been compelled to suspend all works of internal improvement; they have cut the army down to 1,000 men; have reduced all salaries 10 per cent. and it is simply impossible for them to pay as things now are.

The extension sought will be gratefully received, and is, I think, as safe an arrangement as can be made.

I am, &c.,

S. A. HURLBUT.

No. 55.

Mr. Hurlbut to Mr. Fish.

No. 55.]

LEGATION OF THE UNITED STATES,
Bogota, August 5, 1871. (Received September 1.)

SIR: I received by last mail your dispatch No. 43, of date 21st June, in relation to seizure of steamer Montijo.

I have presented your views, as indicated in the same, to Señor Zapata, secretary for foreign affairs, together with copies of the affidavits accompanying your dispatch.

I believe, however, that it will be found that the national government is powerless to punish the piratical acts of Herrera and his crew through any judicial tribunals known in this country, and that the outrage committed and unredressed will require other action than can be obtained through the courts of Colombia.

As soon as I receive the reply of Señor Zapata I will at once forward it to the Department.

I am, &c.,

S. A. HURLBUT.

No. 56.

Mr. Hurlbut to Mr. Fish.

LEGATION OF THE UNITED STATES,
Bogota, August 17, 1871. (Received October 2.)

SIR: I forward, as an inclosure, translation of dispatch from Señor Zapata on the subject of the steamer Montijo. The president is no doubt sincere in his wishes, and pledges to pursue judicially Herrera and his companions; but I feel sure that no probability exists of any satisfactory punishment being awarded. Unfortunately, the proceedings in the first instance must be brought in the state courts of Panama; tribunals of wretched character and notorious venality. The legitimate government of Panama concluded a formal treaty of peace with these insurgents, granted an amnesty for all offenses, and elected one of their leaders (Franceschi) to congress.

Although this offense was beyond their power to condone, the effect of the amnesty upon the court below will be very great. The questions really involved will probably not be decided until the cause shall reach (by appeal) to the federal supreme court held in this city.

I hope that the Colombian courts may be able to convict and punish in this case, as such conviction, acting directly upon the guilty parties, will be far more valuable than reclamation for damages, to be paid from the general treasury of the nation; but the inherent weakness and venality of their judicial system is so great that my hope is against my judgment. I have not forwarded to the Department my own communication to Señor Zapata, to which the inclosed is a reply; it is rather long, as it contains a statement of the testimony arranged from the affidavits forwarded to me, and inasmuch as Señor Zapata readily conforms to the demand for reparation by judicial proceedings, it is not worth while to copy the demand itself, unless the Department desires to be in possession of the whole correspondence.

I am, &c.,

S. A. HURLBUT.

[Translation.

DEPARTMENT OF THE INTERIOR AND OF FOREIGN RELATIONS,
Bogota, August 16, 1871.

MR. MINISTER: The executive power has very attentively considered the reclamation which your excellency has presented in the name of the Government of the United States of America, to the end that the captors of the steamer Montijo may be tried and punished in accordance with the laws of the country, in satisfaction for the wrongs which your excellency claims to have been committed against the personal security and the property of American citizens, and the insult offered to the flag of the United States.

The reclamation of your excellency and the accompanying documents have been transmitted to the attorney general of the nation in order that he may pursue the proper legal course before the proper judges.

On his part the president will see to it that the judicial proceedings shall pursue their course without any delay, and your excellency may be satisfied that the justice of the country will be faithfully administered.

The undersigned improves this occasion to renew the assurances of his most distinguished consideration, and subscribes himself your obedient servant,

FELIPE ZAPATA.

Correct translation.

S. A. HURLBUT.

No. 57.

Mr. Hurlbut to Mr. Fish.

No. 58.]

LEGATION OF THE UNITED STATES,
Bogota, August 27, 1871. (Received October 14.)

SIR: I have the honor to inclose a copy of my dispatch to Señor Zapata on the affair of the Montijo. His reply was forwarded by last mail.

I believe that, in the hurry of doing up the last mail, I neglected to number my last dispatches. They are numbered on my records 56 and 57.

Your obedient servant,

S. A. HURLBUT.

LEGATION OF THE UNITED STATES,
Bogota, August 3, 1871.

The undersigned, minister resident of the United States of America, has the honor to present his respects to the honorable Felipe Zapata, secretary for foreign relations, and to inform him that he is instructed by the honorable the Secretary of State of the United States to present the demand of the United States of America upon the government of Colombia for reparation for the recent outrageous acts of Thomas Herrera and others, in the State of Panama, in this case of the American steamer Montijo.

The facts indisputably proven in this case are these: The aforesaid steamer Montijo was an American vessel, lawfully registered as such, with her proper papers and evidences of nationality. She was under the flag of the United States, engaged in the lawful business of carrying freight and passengers from the city of Panama to other ports of that state.

Her owners are American citizens, residing in the city of Panama.

In the usual course of her legitimate business as a trading-vessel, the Montijo was in the port of David in said state. One of her owners, John Schuber, was on board. About the 2d or 3d of April, 1871, while still in said port of David, Thomas Herrera and Domingo Diaz proposed to Mr. Schuber to charter his steamer. Schuber, suspecting some revolutionary movement on their part, positively refused, and gave such suspicion as his reason for refusing.

On the 5th of April, the steamer, having taken on board her cargo and her passengers, sailed from David bound for Panama. She had a full list of passengers, among them Domingo Diaz and Thomas Herrera. On the morning of the 6th of April the Montijo, being then at anchor at Boca Chica to repair her boilers, a schooner appeared in the offing, upon sight of which Herrera and Diaz demanded of Schuber, the owner, and of Saunders, the captain, that they should set the American ensign of the steamer in a manner indicated by them. Both refused to do so, as it was evidently a preconcerted signal. Herrera and Diaz, and their friends on board the Montijo, then took the flag from the captain's possession by force, threatening him with drawn revolvers.

They then proceeded to set the ensign, upon which the schooner came alongside, and Manuel Diaz and a Colonel Parés, and some others, joined the party who had thus forcibly usurped possession of the Montijo.

From that time, for many days, this steamer was held by this band of pirates, used by them in making war upon the constitutional government of Panama, her officers and crew compelled, by threats and violence, to remain prisoners on board their own vessel, and to work her as ordered by her captors. The vessel itself, the boilers and machinery, were injured and damaged by such use, her stores were used up and destroyed, her insurance periled, her regular and legitimate business broken up, and the whole equipment of ship and crew diverted from legitimate commerce and made involuntary parties in the disgraceful internal quarrel between rival aspirants for power in the state of Panama.

I am instructed to state to the government of Colombia that, in the opinion of the Government of the United States of America, the acts aforesaid, committed by Thomas Herrera and others, his partisans, constitute the high crime of piracy, and deserve the most severe and condign punishment.

This offense, it is to be remarked, was not perpetrated upon the high seas, but in the navigable waters whose exclusive jurisdiction is with the republic of Colombia.

The right and the duty of punishing the perpetrators of this high crime rest upon the country within whose jurisdiction the offense was committed.

I am instructed to apply for reparation for the insult offered to the American flag within the waters of Colombia; for the highly criminal and piratical act of seizing by force and arms a peaceable American vessel; of reducing her owner, captain and crew to the condition of prisoners, and so holding them for many days, making them unwilling agents of a nefarious conspiracy against peace and good order, periling their lives and health in such enterprise, injuring the property of the owners of the steamer, and for all other damage which may have accrued or may accrue from such unlawful and felonious acts.

It is, therefore, reasonably expected by the United States of America that the perpetrators of these high-handed outrages will be vigorously prosecuted, under the laws of the United States of Colombia, to conviction for the crime of which they are evidently guilty.

This reparation by judicial punishment is due to the dignity of the nation whose flag has been insulted, and whose citizens have been imprisoned, and also to the dignity of the republic within whose waters so gross an outrage has been committed.

The undersigned is unofficially informed that some arrangement for an arbitration has been entered into by the owners of the steamer. The United States of America have nothing to do with any disposition made by them as to their private loss and injury, the question more immediately concerning the Government at this time being adequate and prompt punishment, by judicial proceedings against the criminals, for the offenses stated.

The undersigned may be permitted to state, in addition to the foregoing, that the fact that the outrages complained of occurred in the course of one of the numerous revolutions which unfortunately afflict this country, does not, in his judgment, constitute the slightest excuse for the acts complained of.

The revolution itself, in his opinion, was a crime, which the laws and usages of Colombia may mitigate, condone, or excuse; that, so far as affects Colombian citizens only, is a matter for Colombia alone. But when such a pretended revolution, not against the general government, but against a particular state government, assumes to violate the laws of civilized nations, the treaty stipulations of their own country, and the sovereignty of a foreign friendly nation over its own ships and its own flag, it is taken out of the category of domestic disorders, and arrives at the dignity of an offense against civilization, and must be promptly and effectually punished.

In the full confidence that the judicial power of Colombia is competent to administer complete and effective justice against the criminals indicated for the acts perpetrated by them, the undersigned, on behalf of his Government, has the honor to renew the request that all necessary steps may be taken by the executive power to bring about so desirable an end.

The undersigned also has the honor to present herewith the sworn statements of John Schuber, Robert Howard, Mrs. Hannah E. Saunders, and Captain Saunders, the originals of which are on file in the office of the United States consul at Panama, and which are believed to be absolutely true in all substantial matters, and has the honor to be, &c.,

S. A. HURLBUT,
Minister Resident, United States America.

No. 58.

Mr. Fish to Mr. Hurlbut.

No. 46.]

DEPARTMENT OF STATE,
Washington, October 11, 1871.

SIR: Your dispatch of the 17th of August last has been received. It is without the number required by your personal instructions, which you will be careful to attach to all public dispatches. It is expected that the offenders in the case of the steamer Montijo will be prosecuted without any delay which can be avoided. A copy of your note to the Colombian minister for foreign affairs on the subject, which you have omitted to send, would be acceptable. A copy of one which the Department has recently addressed to Mr. Perez, the minister of Colombia here, relative to the postponement of the payments of the amount due under the claims convention with New Granada, is herewith transmitted for your information.

I am, &c.,

HAMILTON FISH.

16 F R

No. 59.

Mr. Fish to Mr. Hurlbut.

No. 48.]

DEPARTMENT OF STATE,
Washington, October 24, 1871.

SIR: I transmit a copy of a letter of the 20th instant, addressed to this Department by David Hoadley, president of the Panama Railroad Company, setting forth the reasons for the failure of that company to pay the subsidy due by them to the Colombian government on the 15th of August last, and subsequently. The letter also represents that information had been received that that government had directed its attorney general to commence suit against the company on the isthmus for the amount due, and to attach the company's property for double that sum. A clause of the contract of the company is quoted to show that such a proceeding would be in violation of that instrument.

This Government must presume that, in entering into the contract, the company acted with deliberation, took into consideration both the ability and the disposition of the Colombian government to fulfill its part of the bargain, and its own ability to do the same under any contingencies, however unexpected or adverse. The abstract right of that government to hold the company accountable for any breach of the contract will not be questioned. This Government, however, will expect that if the Colombian government should deem it advisable to hold the company to the literal performance of their part of the contract, that it will itself be guided, in enforcing the penalty, by a strict observance of the terms. If, however, that government should take a more liberal view of the subject, and should cancel the contract of 1867, as proposed by the company, this Government, in view of the large interests of esteemed citizens embarked in the enterprise, would regard that course as a proof of a friendly disposition on the part of Colombia. It is not usual for this Government officially to interfere in matters of contract between citizens of the United States and foreign governments. There is no determination to disregard the rule in this instance. The considerable public interests involved in the matter may, however, be deemed to warrant you in at least making such informal representations upon the subject as may induce that government to pause in committing any harsh and premature act to the prejudice of the company. This course you will consequently pursue.

I am, &c.,

HAMILTON FISH.

CORRESPONDENCE BETWEEN THE DEPARTMENT OF STATE AND THE
COLOMBIAN LEGATION AT WASHINGTON.

No. 60.

*Mr. Perez to Mr. Fish.*LEGATION OF THE UNITED STATES OF COLOMBIA,
Washington, D. C., February 7, 1871. (Received February 7.)

MR. SECRETARY: I have received instructions to solicit the issue of such orders as may be thought necessary, to the end that Colombian vessels may be treated in the ports of the United States to which they may convey merchandise, when the latter does not proceed from any other ports of the said United States in the same ocean, in the same

manner as (are other) American vessels employed in the same trade; that is, "that neither distinct nor higher duties be collected for the tons of the vessel or for its cargo, be the importation made in vessels of the one or of the other country," as is stipulated in article 4 of the treaty of December 12, 1846, between New Granada and the United States.

By said treaty it was settled, as to commerce and navigation, that there should be perfect equality and reciprocity between the two countries, and indeed within the Colombian territory. Merchandise arriving there or going out under the American flag is free from every discriminating duty.

I deem it unnecessary now to enumerate the advantages which the United States have derived, almost exclusively, from the traffic and the transit across the isthmus of Panama since the ratification of the treaty.

I only need say that Colombia now desires to make use of the equality therein stipulated, in order to insure the establishment of a line of steam-vessels, to encourage commercial relations between the two countries with reciprocal and increasing benefit.

I have the honor, &c.,

S. PEREZ.

No. 61.

Mr. Fish to Mr. Perez.

DEPARTMENT OF STATE,

Washington, February 8, 1871.

SIR: I have had the honor to receive your note of yesterday, stating that you had received instructions to solicit the issue of such orders as may be thought necessary, to the end that Colombian vessels may be treated in the ports of the United States to which they may convey merchandise, when the latter does not proceed from any other port of the United States in the same ocean, in the same manner as American vessels employed in the same trade. Your note further adverts to the fact that the privilege desired was secured by the treaty between the United States and New Granada of the 12th of December, 1846.

In reply I have to state that, as your request seems to imply an opinion on the part of your government that the treaty adverted to has been definitively terminated, it is deemed advisable to hold the application under consideration until no doubt shall remain upon that point. The 35th article of the treaty stipulates that it shall last for twenty years from the exchange of ratifications, which took place on the 10th of June, 1848. The same article further provides, "Notwithstanding the foregoing, if neither party notifies to the other its intention of reforming any of or all the articles of this treaty, twelve months before the expiration of the twenty years stipulated above, the said treaty shall continue binding on both parties, beyond the said twenty years, until twelve months from the time that one of the parties notifies its intention of proceeding to a reform."

It appears that under date the 23d of January, 1867, General Salazar, then accredited to this Government as envoy extraordinary and minister plenipotentiary of the United States of Colombia, addressed to this Department a note from New York, in which he stated that he had been instructed to set on foot a negotiation for the purpose of renewing the treaty prior to the termination fixed in the 35th article.

The receipt of this note was acknowledged in one from the Department of the 29th of January.

With another note of the 23d of April, 1867, General Salazar transmitted a copy of the changes which his government desired in the treaty, and offered to discuss the subject at such time as might be appointed for that purpose.

It does not appear that any reply was made to the last-mentioned note, or that the discussion proposed by General Salazar took place. There is also nothing on record or on file here to show that the notes of General Salazar referred to were regarded and received as such a termination of the treaty as that for which the instrument itself provides.

Nor does it appear that the Secretary of the Treasury of the United States has been informed that the treaty is at an end, and, therefore, that the privileges previously enjoyed under it by Colombia in the ports of the United States must be discontinued. Indeed, so far as this Department is aware, those privileges, including the one requested by Mr. Perez, are still enjoyed by Colombian vessels and their cargoes. In any event, before a definitive answer can be given to your application, or your request can be complied with, it will be necessary for you to state that, from your own knowledge, a similar privilege is enjoyed by vessels of the United States and their cargoes in the ports of Colombia.

I avail, &c.,

HAMILTON FISH.

No. 62.

Mr. Perez to Mr. Fish.

LEGATION OF THE UNITED STATES OF COLOMBIA,
Washington, February 13, 1871. (Received February 14.)

MR. SECRETARY: In the communication which I had the honor to address you on the 7th instant, it was not my intention to state that, in the opinion of my government, the treaty of 1846 between New Granada, now the United States of Columbia, and the United States of America had become null and void.

On the contrary, in soliciting, as I did, the issue of certain regulations, and in basing this request expressly on the provisions of the treaty, I think I recognized that it is now in force, and I have received no instructions whatever to present any observation against this.

It is, moreover, obvious that when my government thinks proper that any modifications should be introduced into said treaty, it will propose them to that of the United States, as it did in the cases which you have been pleased to mention.

With respect to the manner in which trade is carried on between the two countries, and to the necessity of issuing regulations to cause the observance of the treaty in respect to trade, I think it will be sufficient to state the following facts, and to make the following observations:

American vessels convey goods to the isthmus of Panama, or go there to receive them, and no tonnage duty is there required of those vessels. In Colombia, no duty is required, nor are goods brought to the isthmus by American vessels, or goods which, passing over it, are re-exported, likewise in American vessels, subjected to any detention. These same goods, which are, in reality, imported into Colombia, which pass over fifty miles of its territory, and which are re-exported from it, are con-

sidered, as regards the payment of duties in the United States, as if they were only directly transported from one place to another of its territory, and without leaving the same.

Regulations exist in order that goods which, before crossing the isthmus, have paid the proper duty in the United States, may not be obliged, on returning to said United States, again to pay the same duty. Perfect equality and reciprocity as to commerce and navigation having been established between the two countries by the treaty of 1846, it is evident that Colombian vessels have the right to carry on this trade with the same advantages with which it is carried on by American vessels, and across the isthmus of Panama. This trade cannot be included in the only exception which exists to that perfect equality and reciprocity, since it embraces territory of the one country and territory of the other country, and since the benefits which are derived from it proceed as much from the extent and productions of the one, as from the exceptional situation and liberality of the other.

But as the present regulations relative to said trade refer only to goods conveyed in American vessels, in order that this reciprocity may be effective, it is necessary to extend said regulations to goods conveyed in Colombian vessels.

Otherwise, the latter will be unable to carry on said trade, because they will have to take the goods when they have already paid the proper duty in the United States, and will again be obliged to pay the same duty on importing them definitively into the same United States.

Not to extend such regulations to Colombian vessels would be, therefore, to deprive them of the right of engaging in a traffic identical with that which is now carried on between the two countries in American vessels, since without the extension of the regulations there is in reality a double duty imposed on goods conveyed from one point to another of the United States, crossing the isthmus of Panama in vessels which are not American.

This is a discriminating duty, and therefore a duty which, according to the treaty, cannot be imposed upon the cargoes of Colombian vessels. If there had previously been Colombian vessels engaged in this trade, there is not the least doubt that, in accordance with the treaty, the regulations would have been extended to them. But as the effort is now being made to establish them in this trade, on account of the present urgent necessity of reviving commerce between the two countries, a request in accordance therewith is presented. The honorable Secretary perfectly understands the importance of multiplying the means of communication between the two Americas for the best service of their interest and their common aspirations, and he is also aware of the advantages of a new line of steamers, sustained by Americans of skill and experience, like the one which it is proposed to establish between Colombia and the United States, and which may very well be extended to the Antilles, to Central America, and to other nations of South America.

With this reply to your note of the 8th instant, I have the honor, &c.,
S. PEREZ.

No. 63.

Mr. Fish to Mr. Perez.

DEPARTMENT OF STATE,
Washington, February 16, 1871.

SIR: I have had the honor to receive your note of the 13th instant, on the subject of discriminating duties on Colombian vessels from Atlantic ports of that republic to similar ports of the United States. In reply I have the honor to state that, as the subject is obviously an important one, deliberation will be necessary properly to decide in regard to it. The opinion of the Secretary of the Treasury will be required for that purpose. This will be requested, without any delay which can be avoided.

I avail, &c.,

HAMILTON FISH.

No. 64.

Mr. Perez to Mr. Fish.

LEGATION OF THE UNITED STATES OF COLOMBIA,
Washington, April 15, 1871. (Received April 15.)

MR. SECRETARY: On the last occasions when I had the honor to confer with you, you were pleased to state to me that the treaty ratified in 1848, between Colombia and the United States, may now be considered as no longer in force, according to the third part of its thirty-fifth article, because Colombia declared its intention of reforming it, as is seen in the notes which its minister sent to the Department of State on the 23d of January and 23d of April, 1867. You will permit me to repeat, in the present communication, my remarks in relation to this declaration, to the end that this point may be definitely settled, and that I may then inform my government thereof.

In the first of said notes the Colombian minister gave notice that he was authorized to negotiate the renewal of the treaty before the expiration of the term fixed in its thirty-fifth article. It appears, therefore, that the main object was to renew the treaty, and to renew it in time. The modifications referred to only tended, in case of their acceptance, to perfect the relations between the two countries, the strengthening of which the Colombian minister said was the desire which actuated him.

Such documents cannot, therefore, be considered as a notification of the cessation of the treaty, and, in fact, they have hitherto not been so considered. In both countries the treaty has been and still is considered as being in force, and as the basis of their mutual friendly relations. It would be possible, if necessary, to find antecedents of both governments in which the treaty has been, since those notes, recognized as being in force. The government of Colombia has recognized it as being in force by founding on it all the proceedings which it has initiated with the Department of State, and the American Government has recognized it as being in force under your esteemed signature, and that at a very recent date.

In your communication of the 8th of February last, after stating the contents of the notes of the Colombian minister, in 1867, and quoting

the provisions of the treaty relative to its remaining in force, and to the manner in which it was to terminate, you said as follows:

It does not appear that any reply was made to the last-mentioned note, or that the discussion proposed by General Salgar took place. There is also nothing on record or on file here to show that the notes of General Salgar, referred to, were regarded and received as such a termination of the treaty as that for which the instrument itself provides. Nor does it appear that the Secretary of the Treasury of the United States has been informed that the treaty is at an end, and, therefore, that the privileges previously enjoyed under it by Colombia, in the ports of the United States, must be discontinued.

In your note of the 16th of the same month you deigned to notify me that, in the matter which I had submitted to your consideration as connected with the treaty and depending upon it, the opinion of the Secretary of the Treasury had been asked.

Up to those dates, therefore, the American Government entertained no doubts of the treaty's being in force.

Subsequently, in relation to this matter, my reply has only been sent to your note of February 8, in which reply I stated that the instructions of my government are, to proceed in accordance with the treaty; and when my government may think proper to introduce any modifications in said treaty, it will propose them in due form. I therefore think that the American Government will have no objections to recognizing and declaring, now, that the treaty of 1848, between Colombia and the United States is, and has not ceased to be, in force according to its own provisions.

Meanwhile I avail myself of the occasion, &c.,

S. PEREZ.

No. 65.

Mr. Fish to Mr. Perez.

DEPARTMENT OF STATE,
Washington, May 27, 1871.

SIR: Your note of the 15th ultimo, relative to the treaty between the United States and New Granada of the 12th of December, 1846, was duly received. Almost ever since, however, my attention has been so engrossed by other important business that it has been impracticable to secure the leisure necessary to arrive at a satisfactory conclusion upon that subject. Now, however, I am happy to be able to announce that although literally and technically, pursuant to the clause of the 35th article of that instrument upon the subject, this government might hold that the application made by General Salgar for a revision of the treaty in anticipation of a lapse of the time fixed for its termination might be held to have brought about that result, the intentions of the parties at the time may, as you observe, be allowed to govern the question. General Salgar in his notice did not say that if his proposition should not be accepted the Colombian government would regard the treaty as at an end, and Mr. Seward does not appear to have received that proposition as a formal notice of termination. His silence upon the subject may fairly be construed as indicative of an opinion on his part that, so far as the interests of the United States were concerned, no change in the treaty was required, and the form of the application of Colombia may also be construed to imply that, although she might prefer the changes proposed in that application, she did not regard them as indispensable to its continuance. Under these circumstances it may be said

to comport with the interests of both parties to look upon the treaty as still in full force, but as subject to revision or termination in the form and upon the terms stipulated.

The instrument, upon the whole, is believed to have been mutually advantageous. It is true that the flag of Colombia may not have as often been seen in the ports of the United States as that of the latter in the ports of Colombia. This, however, should not be imputed to any defect in the treaty, but rather to the different circumstances of the two countries. A principal object of New Granada in entering into the treaty is understood to have been to maintain her sovereignty over the Isthmus of Panama against any attack from abroad. That object has been fully accomplished. No such attack has taken place, though this Department has reason to believe that one has upon several occasions been threatened, but has been averted by warning from this Government as to its obligation under the treaty. This Government has every disposition to carry the treaty into full effect. If, in the opinion of Colombia, the Executive of the United States should have insisted upon a construction of the clause prohibiting the coasting trade of one country to the vessels of the other, incompatible with that equality in matters of trade and navigation which other articles of the instrument promise, the merchants of Colombia may on proper application to the courts of the United States have their rights under the treaty vindicated.

We heartily desire any practicable and advantageous increase in the commercial intercourse between the two countries, and are by no means so selfish as to prefer that this should be carried on exclusively under the flag of the United States, especially if we should have promised that Colombia may share therein on equal terms. Recent events, which it is needless to particularize, may have made the transit of the Isthmus of Panama less indispensable to communication between the Territories of the United States on the Atlantic and those on the Pacific than when the treaty was concluded. Similar events, however, may, it is hoped, soon impart increased activity to other traffic between the United States and Colombia to the mutual advantage of both countries.

I avail, &c.,

HAMILTON FISH.

No. 66.

Mr. Perez to Mr. Fish.

LEGATION OF THE UNITED STATES OF COLOMBIA,
Washington, May 3, 1871. (Received May 4.)

MR. SECRETARY: As I have had the honor to state to you, my government desires commercial relations between our countries to be increased as far as is suitable to both, and to this end I have solicited the co-operation of the United States, in accordance with the treaty, with regard to which I have not received a definitive reply.

Meanwhile, in obedience to special instructions, I beg you to be pleased to inform me whether the American Government is disposed to aid with a subsidy a line of steam-vessels which it is proposed to establish between the ports of Colombia and those of the United States. As the government of Colombia is disposed to grant a subsidy to said steamers, and to grant them such other advantages as are in its power, the establishment of the line, if aid can be obtained from the United States, will be much more probable.

If your reply is favorable, I shall take much pleasure in communicating it, together with the circumstances and conditions which shall be required by the United States. The two governments may thus act in harmony, and with the promptness which the matter demands.

I avail, &c.,

S. PEREZ.

No. 67.

Mr. Fish to Mr. Perez.

DEPARTMENT OF STATE,
Washington, May 11, 1871.

SIR: I have the honor to acknowledge the receipt of your note of the 3d instant, inquiring if this government is disposed to contribute a subsidy toward aiding a line of steamers, which it is proposed to establish between the ports of Colombia and those of the United States.

In reply, I have the honor to inform you that it is the exclusive province of Congress to grant a subsidy for the purpose to which you refer. That body is not now in session, but at its next meeting a copy of your note will be communicated for the consideration of the proper committees.

The President heartily reciprocates the wish which you express on behalf of your government, that the commerce between the United States and Colombia may be increased so far as may comport with the interests of both countries.

I avail, &c.,

HAMILTON FISH.

COSTA RICA.

No. 68.

Mr. Fish to Mr. Blair.

No. 48.]

DEPARTMENT OF STATE,
Washington, January 21, 1871.

SIR: This Department has received a note from the minister for foreign affairs of Costa Rica, requesting a detail of two scientific engineers for the purpose of surveying a route for a wagon-road or railway between San José and the Atlantic.

In the note a promise is made that the salaries and expenses of the engineers shall be promptly paid. Inclosed is the reply of the Department under a flying seal which you may close after reading the answer, which you will then deliver to Mr. Montufar.

You will notice that although his request has been acceded to, the names of the engineers have not yet been determined upon and nothing is said about their compensation and expenses.

Before they set out, however, it may be prudent that some definite provision, for the latter at least, should be made in advance by that government.

You will consequently lose no time in endeavoring to make a satisfactory arrangement upon this point, of the result of which you will apprise the Department.

I am, &c.,

HAMILTON FISH.

No. 69.

Mr. Blair to Mr. Fish.

No. 83.] LEGATION OF THE UNITED STATES,
San José, Costa Rica, March 10, 1871. (Received April 1.)

SIR: I have the honor to acknowledge the receipt of your dispatch No. 48, of January 21, inclosing the answer of the Department to a note of the minister of foreign relations of Costa Rica, requesting a detail of two scientific engineers for the purpose of surveying a route for a road or railway between San José and the Atlantic.

Immediately on receipt of your dispatch, I obtained an interview with the secretary of foreign relations, and delivered to him your note above mentioned. I at the same time said to him that it was desirable that some definite understanding should be had as to the compensation of the engineers and their expenses.

Mr. Montufar said that he would advise with the president the following day, and inform me without delay what arrangement the government proposed to make to carry out my suggestion.

A fortnight having elapsed since my interview with the secretary, and not having heard from him on the subject, I take it for granted that the government has concluded to postpone, at least for the present, the proposed survey of a route for a road to the Atlantic.

I have, &c.,

JACOB B. BLAIR.

No. 70.

Mr. Blair to Mr. Fish.

No. 91.] LEGATION OF THE UNITED STATES,
San José, Costa Rica, June 25, 1871. (Received July 14.)

SIR: I have the honor to acknowledge the receipt of your No. 54, of the 15th ultimo.

I have communicated with the secretary of foreign relations on the subject therein referred to. A copy of my note and a copy and translation of his reply thereto, I inclose herewith, the former marked inclosure No. 1, the latter No. 2.

You will observe, on reading the note of Mr. Montufar to me, that he copies a note written by him, on the 25th ultimo, to the consul general for Costa Rica in New York and Philadelphia, in which they are directed to make an arrangement with the claimants to pay off at once their entire claim, if they will make a discount for the amount advanced. It is probable that some such arrangement as this has by this time been made. As to that, however, the Department is of course fully advised.

I desire to add a word in reference to the conference spoken of by Mr. Montufar, with me on this subject. Some four months ago, during a conference I had with Mr. Montufar on some other matters, he casually remarked that his government was considering the propriety of paying off those claims, if a proper discount was made for the advanced payments.

I said to him that if his government concluded to do so he had better write me a note to that effect, and state the terms upon which the advanced payments would be made, that I might lay the proposition before my Government. This he promised to do in a day or so. Since then I have not heard from him on the subject; I had supposed the idea had been abandoned.

I make this explanation in justice to myself, lest the Department might infer from his note that a definite proposition had been made to me by him, to settle these claims, and that I had failed to advise my Government of the fact.

I have, &c.,

JACOB B. BLAIR.

No. 1.

LEGATION OF THE UNITED STATES,
San José, June 20, 1871.

SIR: I am directed by my Government to call your excellency's government's attention to the fact that the installment due in March last, under the convention of Costa Rica of the 2d of July, 1860, remains unpaid, and that greater punctuality in the payments is desirable, from the fact that most of the claimants are in indigent circumstances.

Accept the assurances of the high consideration with which I have the honor to be, sir, your obedient servant,

JACOB B. BLAIR.

Hon. LORENZO MONTUFAR,
Secretary of Foreign Relations, &c.

[Translation.]

NATIONAL PALACE,
San José, June 20, 1871.

SIR: In reply to your highness's esteemed note of this day's date, I have the pleasure of transcribing a note addressed, under date of 25th May last, to our consul general at New York, and Philadelphia, as follows:

"I have learnt, with concern, that delay is attributed to this republic in the payment of the American debt. This debt has gone on being religiously paid." "On 10th October, four hundred pounds were sent to Mr. G. Theisen." "Little was then wanting to the total payment, and in a conference which I had in this bureau with the Hon. Mr. Blair, minister resident of the United States, in Costa Rica, I represented that it would be convenient to pay the whole sum at once, the corresponding discount on prepayment being allowed."

"No result whatever followed in consequence of this point in that conference."

"The treasury of Costa Rica has always a cash surplus, and there is no creditor, who, on presenting his document, is not paid immediately."

"If you are pleased to make with the creditors referred to, the arrangement which I proposed to Mr. Blair, and to pay them off under corresponding discount, such operation will be very satisfactory to the government, and you will be reimbursed on your draft at sight."

This opportunity affords me the honor, &c.,

LORENZO MONTUFAR.

Hon. JACOB B. BLAIR, &c., &c.

No. 71.

Mr. Blair to Mr. Fish.

No. 93.]

LEGATION OF THE UNITED STATES,
San José, Costa Rica, July 13, 1871. (Received August 14.)

SIR: I have the honor to inform the Department that the 4th day of July was duly observed at this legation.

During the day the legation was honored with the presence of the ministers of the government, who called in a body; also the officers of the army, headed by the commanding general. The president being unwell, did not attend. Mr. Montufar, the secretary of foreign relations, made some remarks on the occasion in reference to the early history of the United States, its progress and institutions. Being called upon to say something in reply, I thanked Mr. Montufar for his kind remarks and made some general observations on the soil, climate, and future of Costa Rica.

I have, &c.,

JACOB B. BLAIR.

No. 72.

Mr. Hunter to Mr. Blair.

[Extract.]

No. 59.]

DEPARTMENT OF STATE,
Washington, July 15, 1871.

SIR: Your dispatch No. 91, of the 25th ultimo, has been received. No previous official intelligence had reached here of the disposition of the Costa Rican government to pay at once its whole debt to the United States. It is optional with the claimants to accept any proposition for that purpose and upon their own terms. While, however, such a proposition is under consideration merely, it would better have comported with the credit of that government to have paid the amount already due, especially as it is represented that there is a surplus in the Costa Rican treasury.

I am, &c.,

W. HUNTER.

No. 73.

Mr. Blair to Mr. Fish.

No. 101.]

LEGATION OF THE UNITED STATES,
San José, Costa Rica, September 13, 1871. (Received Oct. 3.)

SIR: I have the honor to inform the Department that on the 20th of July last the government of Costa Rica executed a contract with Mr. Henry Meiggs, an American citizen whose fame as the great railroad contractor of South America is not confined to the limits of Chili and Peru, the scenes of his many stupendous operations to construct a railroad from the port of Limon, on the Atlantic Ocean, to the city of Alajuela, about fifty miles distant from the Pacific, via Castago, San José

and Heredia; the estimated distance being one hundred and twenty miles.

Mr. Meiggs undertakes to construct this road within three years, to furnish it with all necessary rolling-stock, erect suitable buildings for ticket-offices, &c., or, in other words, to construct and equip it complete for the sum of one million six hundred thousand pounds sterling, one hundred and seventy thousand pounds of which was paid on signing the contract; the residue is to be paid in monthly installments as the work progresses.

The government has already obtained a loan in London for five hundred thousand pounds sterling, out of which the first payment to Mr. Meiggs was made. I learn it is the purpose of the government to put on the London market another loan at an early day for a sufficient amount to cover the entire cost of the construction of the road.

That this long-talked-of and much-desired enterprise will now be carried successfully through there can be no reasonable doubt. The name of Henry Meiggs to the contract is a sufficient guarantee that the road will be constructed against, if not before, the time fixed in the contract. So far as the trade of Costa Rica is desirable is the construction of this road of interest to the people of the United States. At present almost the entire coffee crop of the country, which seldom falls below two hundred thousand quintals per annum, is hauled in ox-carts to the port of Punta Arenas, on the Pacific, at a cost of one dollar and twenty-five cents per quintal; from thence it is shipped in sailing-vessels "around the Horn," and finds a market in London and Hamburg, after a four months' voyage. Construct this road and the trade of Costa Rica will take a new departure. It will not cost more than forty or fifty cents at most to take a quintal of coffee to the port of Limon, on the Atlantic, and then in nine days by steamer it is in New York, at much less expense than by sailing-vessels to the markets above mentioned, or to New York by way of Aspinwall, over the Panama Railroad.

I will advise the Department from time to time of the progress made in the construction of the road.

I have, &c.,

JACOB B. BLAIR.

ECUADOR.

CORRESPONDENCE BETWEEN THE DEPARTMENT OF STATE AND THE
LEGATION OF THE UNITED STATES AT QUITO.

No. 74.

Mr. Fish to Mr. Wing.

No. 22.]

• DEPARTMENT OF STATE,
Washington, December 15, 1870.

SIR: Your dispatch (No. 39) of the 7th of November last, inquiring "what rules will the United States apply to Ecuadorians who have taken out American naturalization papers, and to their children," has been received. In reply, I have to state that the same rules must be applied to them as to other foreigners in their native country, who may have been naturalized in the United States. It is not conceived that you are bound to recognize any Ecuadorian as a citizen of the United

States merely because he may have been so recognized by one of your predecessors. That recognition may have been occasioned by a misapprehension of the claims of the Ecuadorian to that character, or by other causes. It is certain that in every case of a native of Ecuador claiming of you protection as a naturalized citizen of the United States, it would be your right and duty to require him to exhibit to you his certificate of naturalization. If you should have no reasonable doubt of its authenticity, then there will be occasion to apply to the case the rules set forth in the second and third paragraphs of the circular of this Department of the 14th of October, 1869. An eminent predecessor of mine in this Department, in an instruction to a minister of the United States in a foreign country, expressed the opinion that "it can admit of no doubt that the naturalization laws of the United States contemplate the residence in the country of naturalized citizens, unless they shall go abroad in the public service, or for temporary purposes." In addition, the test prescribed in a recent instruction to another minister of the United States abroad may be applied. These are, in substance, when, and in what assessment district the returns required by the internal revenue laws of the United States have been made by the naturalized citizen. Where, and to whom, have the taxes been paid? The instruction referred to also says that "the omission to have made the returns, or to have paid any tax, would necessarily cast grave suspicions upon the claim of the party applying for the protection of a government from whose support he has withheld the contributions required of all the citizens whether resident at home or abroad, and if such omission has been long continued it will, as a general rule, justify the refusal of a recognition of the claim to protection." No Ecuadorian who may have merely declared his intention to become a citizen of the United States will have any right to your interference in his behalf. The law, justly regarding a change in his allegiance by a foreigner as an act of grave importance, wisely provides that there shall be two steps in the process. By the first, the purpose of change is announced. Between this and actual naturalization the lapse of a considerable interval is required, in order that the final step may be taken with due deliberation. Persons who may have declared their intention to become citizens often change their minds, and fail to carry that intention into effect. They have seen occasion to avail themselves of the *locus penitentiae* which the law allows. It is certain that no children of a foreigner, born before he was naturalized, can claim to be citizens of the United States merely because of his naturalization. It is hoped that these instructions will be sufficiently comprehensive to guide you in all cases which may arise in Ecuador. If, however, you should desire special instructions in any particular case, they shall be forwarded whenever that wish shall be made known to the Department.

I am &c.,

HAMILTON FISH.

No. 75.

Mr. Wing to Mr. Fish.

No. 54.]

LEGATION OF THE UNITED STATES,
Quito, Ecuador, January 5, 1871. (Received February 13.)

SIR: For some time past I have been aware of the recent discovery of a remedy which was declared to be a specific for the cure of some of

the most terrible diseases which scourge humanity. Not being willing, however, to excite hopes liable to the chance of disappointment, I have refrained from bringing it to the attention of the Department hitherto.

Recent experiments which have been explained to me by credible parties, in addition to information concerning certain experiments set on foot by myself, both in Europe and the United States, have convinced me that there is, to say the least of it, enough of reality in the curative properties of the remedy to render it incumbent upon me to lay the matter before the Department; believing, as I do, that if the Department will at once give publicity to it many valuable lives may be saved, and relief afforded in most painful and distressing cases of affliction.

The remedy in question is the wood of a tree called the "cundurango," existing chiefly in the southernmost province of Ecuador, (Loja,) and its peculiar virtues were discovered, it is said, by one of those trivial incidents which evince oftentimes how humble are the means used by Providence to make known the mysteries of nature and the wonders of science.

The ignorant wife of a common Indian laborer who had for some time suffered most fearfully from an internal cancer concluded finally to administer eternal relief to him by the simple process of mixing poison in his food. The woman, it would seem, acted in perfect good faith and honesty of purpose and with no sinister or malevolent design. She wished really to save her husband from his agony; and, feeling that his cure was absolutely impossible, she determined to administer a decoction of the leaves of the cundurango, which are said to be an active poison. Not finding the leaves at hand, she administered a decoction of the wood itself.

To her surprise the man at once began to rally, and as her first attempt had failed she still continued to dose him with the lotion from day to day in increasing quantities.

As a result the man entirely recovered, and the matter becoming public, further tests have established the powers of the wood as a remedial agency.

Only last night I was informed from the most eminent sources in the land that some of the cures effected by it were truly miraculous.

I give the report in regard to the manner in which these properties were manifested as common rumor has it.

Its efficacy in cancerous and venereal diseases has been already approved, and I judge by analogy that it would likewise prove beneficial in scrofulous and ulcerous affections of the different types.

Certainly it commends itself to the experiments of the learned practitioners of the United States; and if its curative qualities go no further than to conquer that fearful malady, the cancer, so long deemed hopelessly incurable, and so fraught with anguish of mind and agony of body, and certain death hitherto, then truly will it have accomplished a most noble end.

The condition of the inland roads and the difficulty of transportation to the coast will for a time interfere with its exportation in large quantities, but the energy of President Morena will eventually open it up to the commerce of the world and the relief of the afflicted.

In this connection I may add that this month the President of Ecuador will forward to the State Department at Washington one boalter of the cundurango for experiment and distribution.

I have thanked him for his courtesy and consideration, and I have every hope that under the enlightened supervision of the Department

medical science may achieve therewith one of its most valuable victories.

Appended, as accompaniment A, I transmit the simple recipe, setting forth the manner in which the article is as yet applied to use. Experiment and experience may soon be enabled to adopt a more powerful and skillful method of application.

If the Department sees fit to make this matter immediately public, it will afford me genuine pleasure to aid both experimental science and suffering humanity by any means that my location and information on the subject may render practicable.

I have, &c.,

E. RUMSEY WING.

A.

Method of using the "cundurango"

A decoction of the cundurango is made out of a small piece of the wood beaten out flat, and half an ounce of which is boiled in three teacupfuls of water.

Of this decoction one teacupful must be taken in the morning and another at night. If the patient has ulcers, they should be kept very clean by the use of aromatic wine or simple ointment, according to the degree of inflammation.

The decoction is only to be used for fifteen days consecutively. An interval of fifteen days must then elapse, when the remedy may again be resumed for the same length of time.

Great attention must be given in order to keep the digestive organs in the best possible condition.

With regard to any other counsel, the general aspect of the patient must serve as guide.

In this country (Ecuador) the cundurango has proven itself to be a powerful restorative, and must eventually work a complete revolution in the treatment of cancerous, venereal, and ulcerous diseases.

DR. CASARES.

QUITO, January 4, 1870.

A true translation.

E. RUMSEY WING.

No. 76.

Mr. Wing to Mr. Fish.

No. 61.]

LEGATION OF THE UNITED STATES,

Quito, Ecuador, January 25, 1871. (Received March 16.)

SIR: Referring to my dispatch No. 54, the contents of which I regard as very important, I desire to correct a slight error into which I had fallen, as I learn from conversations with President Morena and Minister Leon.

The accidental manner of the discovery of the remarkable qualities of the cundurango, as detailed in the dispatch referred to, is entirely correct, with the single exception that the fruit, and not the leaves, are poisonous, and it was in the absence of the fruit that the woman used the wood, supposing, as she did, that it must contain the same destructive properties.

From information given me by the distinguished gentlemen mentioned above, I am more than ever convinced of the great value of the discovery and the necessity for immediate scientific experiments with the wood.

E. RUMSEY WING.

No. 77.

Mr. Wing to Mr. Fish.

No. 64.]

LEGATION OF THE UNITED STATES,
Quito, Ecuador, January 30, 1871. (Received March 16.)

SIR: By communication of date January 18, the United States consul at Guayaquil called my attention to "the regulations of the fire department at Guayaquil," and remitted me a copy of the same.

Upon examination, I found that there were special clauses applying to foreign residents incompatible, in my judgment, with the general practice of nations, and not in accordance with the specific terms of the treaty existing between Ecuador and the United States.

Under these clauses it was within the election of foreign residents either to connect themselves with the fire department, thereby subjecting themselves to all its pains and penalties, or else to be mulcted in the sum of twenty-four dollars per year. In the first instance the fire department was based upon a semi-military organization, and absolute military service was the principal punishment of any violation of its rules. Hence a voluntary exposure to such a result could not consistently be expected of foreigners.

On the other hand, the "exemption tax," as it was called, was only applicable to foreigners, and besides being exceedingly onerous in comparison with the native military "exemption tax," (which, being paid, practically exempted a native both from military and fire service,) it really assumed the shape of a penalty affixed to the non-performance of personal service upon the part of foreign residents.

Under the terms of section 7 of the treaty of 1839 between the United States and Ecuador, American citizens resident here "shall be subject to such *general taxes and contributions* as are or may be established by law." "This certainly was no general tax;" within the purview of that article.

Under the spirit, if not the exact letter, of article 8 of same treaty, the citizens of the United States are entitled to compensation for the performance of any public or private service.

In this case, in place of receiving any compensation, they became liable to an absolute penalty in case such service was not fulfilled.

Moreover, is there not some doubt as to whether it would not be a *special municipal tax* instead of a "general tax," in the treaty acceptance of the sense, even if it were levied upon foreigner and citizen alike? Personally, I regard the consideration rendered in the assurance given to property owners by the existence of a trained fire brigade, certainly sufficient to induce just and liberal foreign residents to contribute a proper support to it, when levied in the shape of a tax bearing equally upon citizen and alien, and not in the discriminative, exceptional, and somewhat offensive manner in which this Guayaquilian penal tax was provided to be enforced.

The day upon which I received Consul Weile's communication I was waited upon by several of my diplomatic colleagues here, who were much exercised over the same matter.

Finally, they concluded to wait upon President Moreno in a body, and request the abrogation of the objectionable features of the regulations.

This I did not regard as judicious or proper for a number of reasons, but principally because such a step would have been a very formal one, and have assumed a shape not altogether palatable to a sensitive government.

Moreover, no specific case had as yet arisen under the regulation calling for official interposition, and even if there had I could not see that a step so formal was requisite, at least until the usual forms of individual and separate representation and appeal to the minister of state had been unsuccessfully tried.

I am happy to be able to say that, although alone in my position at first, I eventually led all of my colleagues to agree with me and to relinquish a project which, in my opinion, no matter how effective it might have been in accomplishing the desired result, would naturally have left unpleasant impressions upon the memory of the President and his ministers.

It is pleasant to be able to add that subsequent events have vindicated my judgment as to the advantage of the usual and prescribed mode of address, and the promptitude with which the error would be rectified by this government.

On the following day I called privately upon Minister Leon, and, assuring him of my great desire to avoid any possibility that might give rise to a question of issue, I laid the matter of these "fire regulations" before him as one calculated to lead to trouble at some future time unless it was immediately looked into. Minister Leon was inclined to differ with me in my judgment of the legality of the clauses in question, but decided to bring them at once to the attention of the President.

On the subsequent morning he asked me to meet him, which I did at the hour appointed. His first proposition was to reduce the amount of the "penalty tax" on foreigners to the same figure as the "military exemption tax imposed on natives." To this I demurred, on the ground that the payment of even one dollar would invalidate the principle for which I contended; and, moreover, that there was no objection urged to the amount of the tax if it were legally and properly levied.

Thereupon, after a further consultation with the President, Minister Leon agreed to order that the clauses relative to foreigners shall not be enforced, and that at the meeting of the national congress in August next, a system shall be devised entirely acceptable to all foreigners.

I may add, that the authorities evidently fully and thankfully appreciated my motives in directing attention to the matter, which might otherwise have had a sequel in claims for damages and disagreeable difficulties. I likewise am pleasantly impressed with the desire hereby evinced by the government to follow out its late declaration regarding foreigners (contained in my dispatch No. 59) and to render its regulations legally acceptable to them.

The result of my negotiations has given general satisfaction to the diplomatic corps here, all of whom will wait on Minister Leon and make known their appreciation of the courtesy and promptitude evinced in the premises.

In this connection, I am anxious to ascertain whether, in the view of the Department, a foreign government can demand even the *personal civil service* of an American citizen there resident in any capacity whatever.

Trusting that my action will receive the approval of the Department, I have, &c.,

E. RUMSEY WING.

P. S.—It may not be foreign to the subject to add that I have advised our countrymen resident at Guayaquil to show a practical proof of their appreciation of the action of the national authorities, and that their objection to the "fire-tax" was based upon no factious or niggarly

reason, but simply because of the manner in which the tax was sought to be levied, by a voluntary contribution for the benefit of the "fire department." Such action would not only be in accordance with strict justice, but will, I am confident, add much to the prestige which our countrymen happily enjoy in Ecuador. As a material example, I took occasion to head the list with a very decent contribution, and the movement will, I am convinced, prove a success in every sense of the term.

E. R. W.

No. 78.

Mr. Wing to Mr. Fish.

LEGATION OF THE UNITED STATES,

No. 74.] *Quito, Ecuador, February 15, 1871. (Received March 16.)*

SIR: Referring to my recent dispatch, No. 64, I desire to lay before the Department certain documents which conclusively establish the military nature of the "fire organization" described in that dispatch, and fully bear me out in my action in the premises.

I forward copies (A and B) of the recent correspondence between the commanding general at Guayaquil and the secretary of war, in this city, (C and D,) being translations of the same.

It will be perceived that the said "the department" is absolutely under the control and supervision of the commanding general, and that in the answer to his communication the minister of war explicitly states that said department is a *bona fide* military organization, and its members liable, in certain contingencies, to be coerced into the regular army of Ecuador.

I have, &c.,

E. RUMSEY WING.

C.

REPUBLIC OF ECUADOR,
GENERAL COMMANDANT'S OFFICE OF THE DISTRICT,
Guayaquil, January 28, 1871.

SIR: The penalty that the "fire regulations" impose upon the firemen for failure of service is only limited to fines and arrests. As this corps is reputed to be in the condition of national guard, destined solely for fire service, by the necessity that there is for them in the city, I inquired of the supreme government, through your respectable intervention, if the punishment of fines and arrests is to be extended only until four consecutive absences, of which the national guard law speaks, or must the same punishment be continued indefinitely, even when they exceed that number. If such is the case, the national guard will be in a worse condition than the fire corps.

FRANCISCO J. SALAZAR.

His Excellency MINISTER OF STATE,
in the Dispatch of War and Navy.

D.

REPUBLIC OF ECUADOR, STATE OFFICE,
IN THE DISPATCH OF WAR AND MARINE,
Quito, February 4, 1871.

Your appreciated communication No. 41, under date of 28th of the past month, was duly received at this department, explaining that the "fire regulations" only impose upon the firemen for failure of service the penalty of fines and arrests, and this corps, being like the national guard, and destined only for fire service by the necessity there

is for them in that city, you inquire if the punishment of fines and arrests should be extended only to the four consecutive failures of which the law of national guard speaks, or has the same penalty to be continued indefinitely the same, even when they exceeded that number, urging at the same time that the active national guard, in time, will be in worse condition than the fire corps. His excellency the President of the republic has resolved that, considering the fire corps as a national guard, the Ecuadorians enlisted in it, who fail in attendance to exercise four consecutive times without a verified just cause, shall be enlisted in the army, it being understood that these failures are when in case of fire they do not repair to lend immediate aid.

SECUNDINO DARGUEA.

His Excellency GENERAL COMMANDER OF THE DISTRICT OF GUAYAQUIL.

No. 79.

Mr. Fish to Mr. Wing.

No. 35.]

DEPARTMENT OF STATE,

Washington, March 23, 1871.

SIR: Your dispatch No. 64, of the 30th of January, in regard to the regulations of the fire department, so far as it imposes personal service upon foreigners, or an exemption tax, has been received. In reply I have to inform you that your refusal to unite with other members of the diplomatic body in Quito in a formal remonstrance against the same was discreet and is approved, as is also your subsequent conduct on that occasion, the propriety of which is shown by the result.

I am, &c.,

HAMILTON FISH.

No. 80.

Mr. Wing to Mr. Fish.

No. 116.]

LEGATION OF THE UNITED STATES,

Quito, Ecuador, July 3, 1871. (Received August 14.)

SIR: I have the honor to forward herewith a duplicate of the articles of armistice between the allied republics of the Pacific and Spain.

I attach hereto a copy and translation of the note with which it was transmitted to me by the minister for foreign relations for Ecuador, (1 and 2.) No. 3 is my own acknowledgment of its reception.

General satisfaction is expressed in regard to the peace which is substantially assured by this treaty.

I have, &c.,

E. RUMSEY WING.

No. 2. 3

[Translation.]

FOREIGN OFFICE OF ECUADOR,

Quito, June 30, 1871.

The undersigned, minister of foreign affairs, has the honor to address himself to the minister resident of the United States, in order to send him the duplicate of the ratification by the Ecuadorian government of the articles of the temporary truce agreed upon in Washington by the representatives of the allied republics of the Pacific and

that of His Catholic Majesty, in order that, according to the indication of your excellency's government, the exchange may be confirmed by duplicate.

The undersigned is happy to renew to his excellency Señor Wing, &c., &c.

FRANCISCO JAVIER LEON.

His Excellency MINISTER RESIDENT

of the United States of America.

No. 3.

LEGATION OF THE UNITED STATES,

Quito, June 30, 1871.

SIR: I have the honor to acknowledge the receipt of the duplicate of the ratification by the Ecuadorian government of the articles of armistice agreed upon in Washington between the representatives of the allied republics of the Pacific and of Spain.

I will forthwith transmit that duplicate to his excellency the Secretary of State, in Washington, who will make the requisite disposition of it.

Renewing the assurances of my very distinguished consideration, I have the honor to remain, &c.,

RUMSEY WING.

His Excellency Señor FRANCISCO JAVIER LEON,

Minister of Foreign Affairs, &c., &c., &c.

No. 81.

E. R. Wing to Mr. Fish.

No. 137.]

UNITED STATES LEGATION,

Quito, Ecuador, August 26, 1871. (Received October 2.)

SIR: Observing that a very general interest has been evinced throughout the United States concerning the "cundurango," I have deemed it proper to forward a few facts relative thereto, in addition to the statements contained in my dispatches 54 and 61. I have been literally overwhelmed with letters on the subject from all parts of America and several of the countries of Europe, containing all sorts of inquiries, requests, suggestions, propositions, and demands.

I have endeavored to answer such of these letters as in my judgment deserved it, courteously and explicitly, but unfortunately my medical attainments have not permitted me to reply to all the intricate interrogatives upon the subject of pharmacy, surgery, botany, chemistry, materia medica, therapeutics, &c., &c., that have been propounded to me.

Nor, on the other hand, have I felt financially justified in sending "just a small box of the wood" to the numerous applicants who have made such requests.

From matters that have come to my knowledge I trust that there will soon be an ample supply of the drug in the United States.

Despite the adverse opinions that I hear have been rendered against it in some medical quarters in North America, I am still not disposed to surrender my faith in its remarkable curative properties.

Of course, I am not prepared to enter upon any theoretical or scientific analysis thereof, but I cannot shut my eyes to the practical results of its use not only in this country, but in eminent and responsible quarters in the States, two at least of which must be within the knowledge of the Department.

From the facts originally reported to me, I first felt it a matter of official duty and of real humanity to call attention to the "cundurango."

I believe that it is always best to risk the chance of failure, rather than to neglect to test an experiment which may result in infinite good.

I am now awaiting the effect in three notable cases, which will be ultimately reported to the Department.

The American consul at Guayaquil will soon be able to forward to the Department various facts in regard to the wood, as he is now giving it close and careful attention and investigation.

A medical gentleman from Washington, who came to Ecuador with high credentials, also reports very favorably concerning it. President Moreno conceived it of sufficient importance to advert to it in his message of August 10 to the Ecuadorian Congress.

If I may place credence in the opinions of medical men here, who have had the advantages of fine training and much practice, it has also proven very beneficial as well in neuralgic and rheumatic affections as in those set forth in my original communication.

It must be a powerful nervous stimulant, and in due season may become of use in the treatment of the spinal, cerebral, and paralytic diseases to which our people seem so singularly liable.

It certainly has eradicated in more than one instance what was called cancer. Further exploration has evinced the existence of several classes of the plant or vine, generally known as "cundurango" among the natives, which vary very much in their effects upon disease.

Hence the correspondence hereto appended (copy and translation 1 and 2) may be essential to purchasers and consumers.

Doubtless there is danger that ignorant or reckless speculators may foist an inferior or worthless article upon the markets; and that the genuine and efficacious species may not everywhere receive a thorough and proper trial. Hence much care should be exercised until the best quality has become well known to drug dealers and the medical fraternity.

The publication of an accurate chemical analysis and physical and fibrous description of the wood sent to the Department some months ago would be valuable in this connection.

No export tax has as yet been imposed upon the article by this government, but I learn that such an one will soon be levied.

Several parties are already engaging largely in its exportation, and, judging from appearances, there will soon be many more in the same traffic.

Since this drug was first called to my attention, several local remedies used here in the treatment of certain other obstinate diseases have been mentioned to me.

I prefer, however, not to enter into any statement relative to them until I am more fully convinced of their utility.

I have, &c.,

RUMSEY WING.

No. 2.

REPUBLIC OF ECUADOR, WAR OFFICE.

Quito, August 18, 1871.

By order of his excellency the President of the republic, and for the consequent ends, I have the honor to remit the original of the dispatch sent to the commanding general of the district by the inspector of the military hospital.

S. DARGUEA.

To the SECRETARY OF THE INTERIOR.

REPUBLIC OF ECUADOR, MILITARY HOSPITAL,
Guayaquil, August 12, 1871.

SIR: In the month of May, of last year, I received a few pounds of "cundurango" through the authorities, to experiment with. For fourteen months I have been assaying the properties of this new vegetable, not only in the establishment under my charge, but also in private practice, and I am happy to communicate to your excellency that this plant will do in a very short time better service than the quinine that is extracted from the woods of the favored province of Loja.

I commenced my experiments with various internal complaints, obtaining admirable results in several cases of rheumatism, neuralgia, and otalgia, as also in a case of eczema, after having employed all the other means advised without any good results.

In the cancer, before and after the ulceration, the "cundurango" is the most powerful agent, and can be qualified as the specific for this horrible scourge.

On one of the most notable persons of the country, whom I treated during the fearful duration of a cancer of the tongue that had destroyed more than half of this organ, prescribing this plant under different forms and combinations, I have obtained a splendid triumph, "the complete disappearance of the cancer," together with the conjunction of diathesis and swellings that made a deformity of all the base of the jaw-bone and neck, but had the misfortune to lose the patient in consequence of a sudden relapse of disease that had troubled him for several years: an access of asthma which gave rise to asphyxia that carried him off in an hour during the convalescence of a fever that he had contracted some time after having made "a radical cure of the cancer."

At present I have under my charge a lady very well known, who had a cancer upon the left breast which has been reproduced in two points of the enormous scar, and having been recommended by various persons to undergo a new operation, preferred my care, and I obtained what will be in fifteen days a complete cure.

Two cases more I have to refer to, in which if I have not obtained entire success, it has been on account of special circumstances of the patients, but in them I have proved the sure and efficacious action of the "cundurango." Later I will give a more detailed report of the action of the "cundurango" and of its results, with documentary proof that will convince all, even to the most incredulous. I regret, however, that my field of observation is so reduced.

It is just that the sons of the country profit by these providential discoveries, and that in honor of the nation to take part, without expecting everything from abroad.

Now the exportation commences with furore, hotly disputing the speculations, causing fraud to intervene, as they export portions of the vine, sell it at high prices without its being the true cundurango.

I hope that soon the genius of our chief magistrate will take the necessary measures to avoid these consecutive evils to the advantage of the country, and so that this splendid discovery will not suffer the attacks to which the scandalous falsifications of several speculators will give rise.

H. CHIRIBOGA.

To the GENERAL commanding the district.

REPUBLIC OF ECUADOR, WAR OFFICE,
Quito, August 18, 1871.

By order of his excellency the president of the republic, the original of the dispatch of the inspector of the military hospitals of that place was remitted to the war office, for the consequent ends to which it may give rise relative to the effect produced by the vegetable "cundurango," accompanying your esteemed communication No. 12.

S. DARGUEA.

To the COMMANDING GENERAL of the district of Guayaquil.

No. 82.

E. R. Wing to Mr. Fish.

No. 143.] UNITED STATES LEGATION,
Quito, Ecuador, September 14, 1871. (Received October 14.)

SIR: In addition to the inclosure in my dispatch 137, I herewith forward two articles taken from a Guayaquil paper concerning the cundurango.

No. 1 is a letter by a pharmacist of Guayaquil, of whose personal skill and aptitude I know nothing, but I inclose it nevertheless.

No. 2 is a communication from the surgeon-in-chief of the government hospital, who is reputed to be a gentleman of decided ability in his profession.

I particularly commend this last inclosure to perusal, as it contains matter relative to the exportation and sale of the cundurango, which had occurred to me as possible heretofore, (see my dispatch No. 137,) and which should render purchasers, if these statements are not erroneous, exceedingly careful in securing the article.

Having called attention to it because I believed it to be my duty to do so, I have no interest in the matter beyond that of seeing it patiently and fully tested. But that I do most earnestly wish to see, and such a test cannot, of course, be made, unless the real cundurango is obtained.

I learn that it exists in large quantities throughout Southern Ecuador, and there is no reason why purchasers need permit themselves to be deceived by a spurious article, if any such should at any time unfortunately reach the American markets.

I do not forward a translation of Dr. Chiriboga's communication, as, owing to the medical terms used, and the variety of tests suggested therein, I would prefer that the translator of the Department should make it for the sake of absolute certainty and accuracy.

Allow me to suggest that it be made public at once.

I have, &c.,

RUMSEY WING.

No. 83.

CORRESPONDENCE BETWEEN THE DEPARTMENT OF STATE AND THE LEGATION OF ECUADOR IN WASHINGTON.

Mr. Flores to Mr. Fish.

[Translation.]

WASHINGTON, *March 14, 1871.*

MR. MINISTER: I have received from my government, in order to offer it to you, a vegetable called "cundurango," which is produced in the province of Loja, Ecuador, and to which great medicinal qualities are attributed, as you will see by the annexed extracts, copied from No. 425 of the official journal of Ecuador.

In case your excellency may think proper to accept this little offering, I take the liberty of inclosing the bill of lading of the box which contains it, to the end that you may be pleased, if you see fit, to return it to me with the necessary order for the custom-house at New York, and to take such other measures as you may think proper.

I have been specially directed by my government to communicate the result of the analysis and experiments which may be made. I will therefore thank your excellency to deign to afford me, as far as possible, the means of obeying this order.

In the hope that your excellency will be pleased to give to this matter the attention which is demanded, not only by humanity and science, but by the mercantile interests of Ecuador and the United States of America, I have the honor to reiterate to your excellency the assurance of

my very high and distinguished consideration, and to subscribe myself your excellency's very obedient servant,

A. FLORES.

[Translation.]

Extracts from the reports of Doctor Casares, Eguiguren, &c., &c.

QUITO, April 28, 1870.

I am happy to reply to your excellency's esteemed communication of the 21st instant, in which you inform me that the supreme government has resolved to send fifty pounds of the "cundurango," in order that this vegetable may be analyzed by scientific societies of Paris and London, and I am ordered to make a circumstantial report of the therapeutic effects which I have obtained by its application in some diseases.

About the month of September last, I commenced to administer this remedy to Bernabé M——, who was suffering from a cancer, and the favorable result of this treatment, which was obtained in a few days, I thought proper to bring to the notice of the supreme government; but as the small quantity which I had obtained gave out, I was unable to continue the use of it.

The domestic, Santos A——, of Mrs. Mercedes Larrea, has suffered a long time from a cancerous ulcer on the thigh of her right leg; she has always been attended by respectable physicians without any favorable result; she is now well, only two or three lines being wanted where it has healed up.

Juan Bautista G—— was suffering from a cancer in the lower lip; I removed it apparently entirely; four months afterward, however, the cancer reappeared, and, instead of resorting to a new operation, I applied the "cundurango," which caused it to disappear completely.

Mr. D——, now priest of the parish of N——, has long been a sufferer from a cancer above and below his left eye; he has been for a short time under the influence of this medicament, and the edges of ulcer have become depressed, the suppuration has changed its aspect, and the cancerous humor does not exist.

The above are the cases of cancer which I have observed and subjected to the action of cundurango, and I have the satisfaction of being able to state that all the aforesaid patients are known in the country, and may be examined by any person desiring to do so.

Passing to another case, I will state that it is a year since José A—— entered this hospital, suffering from intermittent fever and scrofulous ulcers in the breast. Constant and diligent care did nothing toward restoring his health, until I resolved to administer the cundurango to him together with arsenic, and his present condition is very encouraging.

I will remark that the cancers which I treated with the cundurango were already in the form of *fungus hamatodes*, and none in the state of rawness.

The plan adopted in its use is as follows: First regulate the digestion and the biliary secretions in the best manner possible; surround the patient with pure air; take great care to secure cleanliness; give food which is easily digested; give him a cup of the decoction of cundurango in the morning, and another at night, until you observe that its action has caused debility; in which case I have replaced it sometimes by diuretics, together with tonics, and sometimes by diaphoretics and mild infusions of quinine. In cases of cancer I have made local applications of poultices, formed with the prepared shell of an egg and with water, alternating with some ointments promotive of suppuration, as was required by the state of the ulcer, after chloride lotions, slightly astringent.

In syphilis, the internal method is entirely similar to the one above-mentioned; and locally I have only used sometimes aromatic wine, and at other times simple cerate, according to the state of irritation of the part.

In case the result of the analysis of the cundurango be favorable, I think it proper for me to mention the fact that I have been assured that the kernel contained in the fruit of this vegetable kills dogs, just as strychnine does.

Reminding the patient of this terrible circumstance, (the difficulty of saving his life,) I obliged him to take the remedy, which I alone possessed in Quito. After a few days, it produced so surprising an effect that Dr. Casares was astonished at the rapidity with

which the cure took place, until the edges became cicatrized, and also the bone, as if it had been a wound in soft parts and in a healthy subject. I caused Dr. Casares to be informed of the remedy which had cured him, and this professor appreciated a medicament of such high importance; and afterward learning that a servant of my brother, Manuel Eguiguren, had cured himself some months before of an ulcerated cancer which resisted the known appliances of art, he began to give it to a patient who was, by chance, in the hospital, and who would have died two or three days afterward if this remedy had not been so seasonably given him, as I was assured by Dr. Casares when he took me to see him.

I think it a matter of the utmost importance to point out the manner of administering this remedy, in order to facilitate observations in the places to which it is sent. The stem, (or trunk,) cut into small pieces, is boiled in water until the latter becomes of the color of Sherry wine or strong tea; of this decoction from four to five ounces are given, properly sweetened, once or twice a day, according to the urgency of the case; but it is to be remarked that it cannot be given many days in succession, as it gives rise, in some persons, to nervous phenomena of considerable importance, which disappear on the simple suspension of the remedy.

It has been used in this manner hitherto, as it is still an empirical remedy, and because it is thus used in Loja, where it was discovered.—*El Nacional*, (official journal of Ecuador,) No. 425.

His Excellency the MINISTER OF THE INTERIOR, &c.

FRANCE.

No. 84.

Mr. Washburne to Mr. Fish.

No. 321.]

LEGATION OF THE UNITED STATES,
Paris, November 18, 1870. (Received December 12.)

SIR: I was in hopes before this time to have made to you a full and complete report of my action as connected with the protection of the subjects of the North German Confederation, Saxony, Hesse Grand Ducal, and Saxe-Coburg-Gotha, in France, with which I had been charged, during the existing war between those powers and France. But as my duties still continue, I cannot now make a final report, which would have to embrace my account with the Prussian government.

In the account for the contingent expenses of this legation, for the quarter ending on the 30th of September last, I have not included any of the items of expenditure pertaining to that business, for the reason that such expenses run into the present quarter, and that it would be better to have them all put into one account. I hope, at the end of the present quarter, to be able to include everything. I will state, however, for your general information, that such expenses so far scarcely reach a thousand dollars. These expenses already paid, and to be paid, independent of certain amounts, to which I will hereafter allude, will not reach more than fifteen hundred dollars. All the items will be given in detail, and I hope the amount will not be regarded as extravagant, when the extent of the service is considered. I was glad to know that the Department coincided with Mr. Bancroft and myself in the opinion that all these expenses should be paid by the United States. It would certainly have been unworthy of a great Government like ours to permit itself to be paid for hospitalities extended to the subjects of other nations, for whom our protection had been sought.

When, in accordance with your directions in July last, I took upon

myself the protection of the German subjects in France, I had but a faint idea of what the undertaking was going to involve, for I had hardly supposed it possible that I would be charged with the care and with the superintendence of the departure of more than thirty thousand people, expelled from their homes upon so short a notice. From the time of the breaking out of the war, and as soon as it became known that the Germans had been placed under my protection, you can well imagine, considering so large a population, what would take place in that exciting period. The legation began to be crowded from day to day by persons desiring protection, advice, information, and assistance. Many were thrown into prison, charged with being "Prussian spies," many were under arrest as dangerous persons, and the lives and property of others were threatened in their neighborhood. My good offices were sought for and cheerfully rendered in all such cases, and I believe I never failed in accomplishing all I undertook in such emergencies. The first extraordinary order of the French government, prohibiting all such Germans from leaving France who might by possibility owe military service, and about which I had so long a correspondence with the Duke of de Grammont, created great alarm among a large number of them who were extremely anxious to get away. The practical operation of that order prevented any German from leaving French territory without special authority to that end, first had and obtained from the minister of the interior, and all applications for such authority had to be made through me; and after all this was changed, and the expulsion of the Germans decreed, it was required that I should visé the passports, or give a *laissez-passer* to every German leaving France.

I have spoken of thirty thousand as the number of Germans placed under my protection, and who were expelled from France. I make this estimate from the number of visas and passports which I gave out, and that number, as recorded in the legation, amounts to eight thousand nine hundred. In the rush and hurry of business there was no record made in many cases, and it is entirely safe to say that the whole number of visas and passports going through the legation amounted to not less than nine thousand; the larger number of these passports included the husband, wife, and children. It is a moderate estimate to say that there was an average of three and one-third persons to each passport. That would make the thirty thousand souls.

We issued our own cards, which by an arrangement with the railroad company entitled the holder to a railroad ticket from Paris, through Belgium, to the German frontier, for nine thousand three hundred and thirty-two persons, and gave pecuniary assistance to a smaller number. This involved an examination of each person as to his or her want of the necessary means to get out of the country, for our instructions were not to make advances to people who had the means to pay their own expenses. It also involved the necessity of sending two or three persons from the legation to the railroad depot every night, in order to see that the holders of the cards received their railroad tickets, and were properly sent off.

It was about the middle of August when the expulsion of the Germans from Paris began to be enforced, and when I received the credit of fifty thousand thalers from the Prussian government to assist them. From that time till the middle of September, when the northern railroad was cut, we were literally overwhelmed with these poor people, seeking the visas of their passports and the means of getting away. For days, and I may even say for weeks, the street was completely blocked up by them awaiting their turns to be attended to. On one day

more than five hundred had gathered in front of the legation before 7 o'clock in the morning; and in some days there were not less than from twenty-five hundred to three thousand persons in waiting. It took a police force of six men to keep the crowd back and keep the door open, so that the people could enter in their turn. With such an amount of work so suddenly thrown upon the legation, I found it almost impossible to get the necessary help to assist me, though authorized by the Department to employ the requisite force. I was fortunate in being able to procure the services of the secretaries of the Saxon and Darmstadt legations, and of the clerk of the Prussian consul general in Paris, all of whom proved invaluable, from their knowledge of both the French and German languages. I had also the benefit of the services rendered voluntarily, by your son, by Mr. Eustis, and by several other friends. Some days there were no less than eleven persons engaged at the legation, but with all the force we had it was impossible to keep up with the demands upon us.

And in further connection with this matter, I now beg leave to make a suggestion. I have stated what will be the probable amount of the expense actually paid out and to be paid out of the contingent fund. In my judgment that amount should be added to. The extra duties which have been devolved upon the two secretaries and the messenger of the legation have been arduous and responsible, and certainly such as have never been contemplated. They have been discharged with a zeal and fidelity worthy of all praise. I think, therefore, in justice that they are entitled to some extra compensation, and I hope it may be granted to them. I say this the more readily as I disclaim anything of the kind for myself. My salary is ample, and I would receive no extra compensation on any pretext whatever. Not so with the persons to whom I refer, for their salaries are low. When the extra and exceptional services they have rendered, and the vastly increased prices of living consequent upon the siege, are considered, I do not think a claim for extra compensation on their behalf can be considered as unreasonable. I shall hope, therefore, that Congress will consent that you shall allow Wickham Hoffman, the first secretary of legation, \$600; Frank Moore, the second secretary of legation, \$500; Antoine Schmit, the messenger of the legation, \$300; and Antoine Roger, the concierge, (who had to guard the door fourteen hours a day for two months,) \$100. These amounts added to the expenses already incurred and to be incurred in this behalf will not reach more than \$3,000, which is not half the amount I have taken for passports since the war broke out, and which the state of war obliged our countrymen to have.

I will add a few observations in regard to the present condition of the Germans in Paris at the present time who are under my protection. Considering the large German population here prior to the breaking out of the war, it is not a matter of wonder that a good many were found here when all communication was finally cut off. When it became evident that the city was to be besieged, I redoubled my exertions to get these unfortunate people away. Deprived of all work, their little resources exhausted, the intense hostility of the French people toward them, bad as their condition was, it was to become infinitely worse in case of a siege. Many were in prison for vagabondage, and many were detained charged with being spies, dangerous persons, &c. Upon my application to Mr. Gambetta, he concerted with the Count de Kératry, the prefect of police, for their discharge *en masse*, and for sending them, at the expense of the French government, to the Belgian frontier. But quite a number yet remained. Many were too old and infirm to leave. Some

were sick, some were children left behind who had been put out to service; but perhaps the larger number were female domestics, most of whom had been persuaded by their employers to remain, under pledges of protection. But as the siege progressed and the price of living augmented, many of these persons, discharged by their employers or denounced to the authorities, were turned into the street, only to be arrested and imprisoned. In one of the prisons, which I visited some three or four weeks since, I found seventy-four persons of this class. I arranged for the release of most of them, and have had them comfortably cared for, and with the promise of the French authorities that they shall be protected. There are others yet in prison, and I hope soon to complete an arrangement for the release of all who do not stand charged with some criminal offense. Not a day passes now that there is not some new application for assistance. I have now one hundred and fifty that I am providing for. From the Prussian fund still remaining in my hands, I think I have sufficient to take care of them till the end of the siege.

In conclusion I beg to say that the duties imposed upon me in virtue of the functions with which I have been charged in this regard have been laborious, responsible, and delicate, and it is perhaps too much to expect that I have discharged them in a manner entirely satisfactory to both the belligerent powers and to my own Government. My position has sometimes been very embarrassing. None of the writers on public law, so far as I have been able to find, have laid down any rule to be observed, or refer in any manner as to what is proper to be done by the representative of a neutral power charged with the protection of the subjects of one belligerent power remaining in the country of the enemy during a state of war. I have had, therefore, to grope somewhat in the dark and do the best I could. I have not shrunk from any duty or any labor. During two months I was occupied every day from twelve to eighteen hours. When the pressure for the departure of the Germans was the greatest, I went myself to the railroad depot at night, after working all day at my legation, and remained till midnight to superintend their departure and to seek out and provide for cases of extreme destitution that had not been made known. You will permit me to say that whatever services I have been able to render have been rendered most willingly and most cheerfully, for with the means so generously placed at my disposal by the Prussian government I have had the satisfaction of relieving a vast amount of suffering and misery. It is pleasant to know that no complaint of any German has ever reached this legation of a failure on my part to do everything that could properly be done by me in respect of protection, advice, or assistance. On the other hand, all classes have signified to me their thankfulness and gratitude for what I have been able to do for them.

I will only add further, in closing this dispatch, that during the period about which I have been writing the business properly belonging to our legation was increased to an extent never before known, and I have endeavored faithfully and satisfactorily to discharge all the duties I owed to my Government, and to our countrymen abroad, who have in any manner sought my good offices, protection, or advice.

I have, &c.,

E. B. WASHBURN.

No. 85.

Mr. Washburne to Mr. Fish.

No. 323.]

LEGATION OF THE UNITED STATES,
Paris, November 21, 1870. (Received December 12.)

SIR: The official dispatches from you, which came in the bag that arrived this morning, are acknowledged in another communication. By the bag that will leave to-morrow morning I cannot send you anything of much interest pertaining to military or political events. In fact, there have been no military movements for several weeks, and since the miserable affair at the Hotel de Ville of the 31st ultimo nothing of particular interest has taken place in the city. Everything is quiet, even to dullness. The reported advantage gained by the French at Orleans has done much to encourage the Parisians, and there is a disposition now manifested to hold out to the last. Yet, should there be news of disaster, all may change, and the siege may be raised before this reaches you. We remain in ignorance for a long time as to what is going on in the outside world. No newspapers get into Paris except those that come to this legation. Our last London dates are of the 10th instant. The latest New York papers are of the 29th ultimo.

The people are suffering their privations with a good deal of fortitude. If they could be made to believe that France could be saved they would suffer to the last extremity. As it is, I can see no prospect of the siege being raised in any way. I shall not be as much surprised in seeing the city now hold out till January as I have been already in seeing it hold out so long as it has. There has been no *real pinch* up to within a short time, but now things are getting to be a little hard. Fresh meat, including horse and mule, is very nearly exhausted. Poultry, butter, cheese, &c., are about out of the question. A turkey sells for sixteen dollars, a chicken for five dollars. Butter sells for four dollars a pound. There is yet quite a quantity of vegetables, but at high prices. The price of bread is fixed by law, and it has not raised much. Wine is abundant and cheap. The time is not far distant when the great mass of the people of Paris must live on bread and wine almost entirely.

No members of the diplomatic corps have left for several weeks, and I believe that those who are now here propose to remain to the end. No foreigners at all are now leaving Paris.

I have, &c.,

E. B. WASHBURN.

No. 86.

Mr. Washburne to Mr. Fish.

No. 325.]

LEGATION OF THE UNITED STATES,
Paris, December 3, 1870. (Received December 30.)

SIR:—I have received both from Mr. Motley and Mr. Bancroft a copy of your telegraphic dispatch of the 15th ultimo, in which you state that the President instructs you to say that whenever General Read and myself, or either of us, desire to leave Paris, we are at liberty to do so, going to "Tours and communicating with the proper officials there." I have communicated the message to General Read, and we are both

very grateful to the President and yourself for your kindness in this regard.

The dispatch leaves it discretionary with me to remain in Paris, or go out and repair to Tours. It is, therefore, for me to determine what, in my judgment, the interests of my Government requires, and what my duty is in the premises. If I were shut off from all communication with you it might be important that I should leave here in order to hold intercourse with you. Such is not, however, the case at present, for I am now enabled to send dispatches to you and receive them from you once each week, which is as much as I would be likely to do were I at Tours. That being the case, the question for me to decide is, where can I be of the most service, in Paris or in Tours? I have no doubt on that subject, and great as my desire is to get out of this besieged city and to join my family, from whom I have been so long separated, I consider it my duty to remain here, at least for the present. Paris is the seat of government of the country to which I am accredited, and is the seat of the present provisional government of the national defense, which has been duly recognized by the United States. And here is also the minister of foreign affairs, with whom I have to be more or less in communication. There are yet remaining in Paris some one hundred and fifty Americans, many of whom have been unable for various reasons to get away, and some of whom have remained here because I have remained.

The French government having heretofore given them every opportunity for leaving, which they did not take advantage of, now declines, for military reasons, to permit the people of any nationality to leave Paris. Therefore, my countrymen now here all look to me for a certain protection, and they would much regret to see me go away, leaving them behind. There is also a large amount of American property in Paris under my protection, and circumstances may arise when it might become important for me to be here.

Independently of what belongs to our own legation, I am more or less occupied every day with the affairs of the North German Confederation. I am now furnishing three hundred and forty-one poor Germans pecuniary assistance, and the number is increasing every day. It is impossible for the messenger of the legation to attend to them all, and I have had to employ a man specially for that purpose.

Under all the circumstances, therefore, I think my determination to remain at my post will meet with the approval of the President and yourself.

I have, &c.,

E. B. WASHBURN.

No. 87.

Mr. Washburne to Mr. Fish.

No. 328.]

LEGATION OF THE UNITED STATES,
Paris, December 5, 1870. (Received December 30.)

SIR: For military reasons the authorities were obliged to decline giving me a "parliamentaire" for last Tuesday morning, the 29th ultimo, to take my dispatches to the Prussian outposts. I now hope to have one for to-morrow morning; and if so, my dispatches will only be one week behind. I received a bag from London last Tuesday afternoon,

with London papers up to the 18th, and New York papers up to the 3d ultimo. I was disappointed, however, in getting nothing whatever from the Department.

Military operations around the walls of Paris began in earnest on Tuesday, the 29th ultimo. There was heavy fighting on Wednesday, the 30th ultimo, and on Friday the 2d of December. Though I could hear these battles raging distinctly from the windows of the legation, I am unable to give you any particular information in regard to them. As a movement to break through the Prussian lines, it was a failure; as a fight, the French claim an advantage. As the newspapers are forbidden to say anything, and as the official journal does only vouchsafe to us a few solemn official lines, we are utterly in the dark as to the real results of the fighting which actually took place. No statement has yet appeared of the losses of the French in killed, wounded, prisoners, missing, &c. I do not know that I can do anything more, or anything better, than to send you all that has appeared in the official journal in regard to military matters during the last week. The results of the battles, such as they are, and the news received from the provinces during the last week, have done much to inspire the people of Paris. The *morale* of both people and soldiers has greatly improved. I do not think the prospects for a successful sortie are very good, and unless it is understood that the armies which are supposed to exist in the provinces have been substantially annihilated, the siege may yet last for a long time. At present the authority of the government is supreme, and all Paris is confronting its sufferings with fortitude and courage. But no one can tell how soon this may all change. The weather is now excessively cold for the season, and the privations of the people are very great.

Another sortie is talked of very soon, and if it takes place as is expected, you will hear of it long before this dispatch will reach you.

I have, &c.,

E. B. WASHBURNE.

No. 88.

Mr. Fish to Mr. Washburne.

No. 211.]

DEPARTMENT OF STATE,

Washington, December 6, 1870.

SIR: I inclose herewith a copy of a dispatch of the 5th ultimo, and of its accompaniments, addressed to this Department by Mr. John de la Montagnie, United States consul at Boulogne, in relation to the expense incurred by him in subsisting French soldiers, by order of the authorities at that place.

You are instructed to bring this matter to the notice of the French government, and to request that proper steps may be taken for the repayment to the consul of the amount thus expended by him.

You will observe from the letter of the mayor of Boulogne to the consul, that he disclaims the right of subjecting the consul of the United States to the tax for the support of soldiers. The act really seems to have been that of billeting soldiers upon the consul, and, as such, is in direct contravention of the 2d article of the convention of 23d February, 1853.

The mayor, in his letter of 15th October, assimilates the position of

the American consul to that of certain other consuls, who by custom of previous years have not been subjected to this imposition.

The action of the mayor relieves the present case from any serious aspects, and this Government is indisposed at the present time to dwell upon irregularities in this regard which may have occurred.

But you will call the attention of the minister for foreign affairs to the violation of the immunities of the consul, which have thus been invaded, and say that the exemption admitted to attach to the consul at Boulogne, exists in the opinion of this Government, by virtue of the convention of 1853, and cannot be accepted by reason of any special custom with regard to the consuls of other nations.

I am, &c.,

HAMILTON FISH.

No. 89.

Mr. Washburne to Mr. Fish.

No 332.]

LEGATION OF THE UNITED STATES,
Paris, December 12, 1870. (Received January 4, 1871.)

SIR: I have the honor to send you herewith a translation from the "Journal Officiel" of December 8 of the government report of the battle of Villiers, and of the military movements immediately connected therewith.

I am, &c.,

E. B. WASHBURNE.

[From the Official Journal, December 8, 1870.]

The late sorties made by the army of Paris on the 29th and 30th of November, and on the 1st, 2d, and 3d of December, led to engagements on most of the points of the enemy's lines of investment.

On the evening of the 28th of November operations commenced.

To the east the plateau of Avron was occupied by the seamen of Admiral Taissat at 8 o'clock, supported by the division of Hugues; a powerful artillery of pieces of long range was placed in battery on this plateau, threatening, at a great distance, the positions of the enemy, and the roads used by their convoys at Gagny, Chelles, and Gournay.

To the west, in the peninsula of Gennevilliers, earth-works were begun under the direction of General de Liniers; the batteries were armed anew, gabions were placed, and rifle-pits dug in the islands of Marante, of Bezons, and on the railroad to Rouen. The next day General de Beaufort ended the operations on the west side, making a reconnaissance toward Buzenval and the heights of Malmaison, resting on his right, which joined the troops of General de Liniers in front of Bezons.

The 29th at daybreak the troops of the third army, under General Vinoy, made a sortie on Thiais, l'Hay, and Choisy-le-Roi, and the fire of the forts was directed on several points remarked as selected for the concentration of the enemy's troops.

Movements executed during the two preceding days had filled the plain of Aubervilliers with numerous forces, and united the three corps of the second army under the orders of General Ducrot, on the banks of the Marne.

The 30th November, at the break of day, bridges, prepared out of sight of the enemy, were thrown across the Marne near Nogent and Joinville, and the two first corps of the second army, led by Generals Blanchard and Renault, rapidly effected the passage of the river with all their artillery. The success of this movement had been secured by a sustained fire of artillery from the batteries of position placed on the right bank of the Marne at Nogent, at Perreux, at Joinville, and in the peninsula of Saint-Maur.

At nine o'clock, these two corps d'armée attacked the village of Champigny, the wood of the Plant, and the nearest portions of the plateau of Villiers. At eleven o'clock, all these positions were carried and intrenchments were already commenced by the troops of the second line, when the enemy made a vigorous forward movement, supported by fresh batteries of artillery. At this moment our losses were serious; in front of Champigny, the Prussian pieces in position at Chennevières and at Conilly

forced back the column of the first corps, while a heavy infantry force, descending from the intrenchments of Villiers, charged the troops of General Renault. At this point it was owing to the vigorous efforts of the artillery under the command of Generals Frébault and Boissonet that the advance of the enemy was checked.

Thanks to the changes made in our batteries, the Prussian artillery was partly dismounted, and our men, led to the charge by General Ducrot, took final possession of the crests.

During these operations, the third corps, under the orders of General d'Exéa, advanced in the valley of the Marne as far as Neuilly-au-Marne and Ville-Evrard. Bridges were thrown across the Petit-Bry, and Bry-au-Marne was attacked and occupied by Bellemare's division. Its advance, delayed by the passage of the river, was continued beyond the village as far as the slopes of the plateau of Villiers, and the efforts of its columns aided in taking possession of the crests effected by the second corps in front of Villiers. In the evening our bivouac fires extended over all the hill-sides of the left bank of the Marne, while those of our reserve blazed on the slopes of Nogent and Foutenay.

The same day, November 3, the division of Susbille, supported by a strong reserve of the "bataillons de marche" of the National Guard, advanced in front of Crétail and carried the positions of Mesley and Montmesley, which they occupied till evening. This diversion on the right of the operations of the second army was supported by fresh sorties, made on the left bank of the Seine, towards Choisy-le-Roi and Thiais, by the troops of General Vinoy.

To the north, Admiral La Roncière, supported by the artillery of his forts, occupied Drancy and the farm of Groslay in the plain of Aubervilliers; strong bodies of the enemy were thus drawn to the banks of the rivulet, the Morée, behind the bridge of Iblon. Toward two o'clock, the admiral passed through Saint Denis, and, at the head of fresh troops, directed an attack on Epinay, which our soldiers, supported by the batteries of the peninsula of Gennévilliers, successfully occupied.

The 1st December, there were only some skirmishes of sharp-shooters at the beginning of the day in front of the positions of the second army, the fire of the plateau of Avron continued to disturb the movements of the enemy at Chelles and at Gournay, as he concentrated his troops in large numbers, (at night particularly,) with a view to bring up fresh forces behind the positions of Cœnilly and of Villiers.

December 2, before day, the fresh forces, thus concentrated, attacked the positions of the army of General Ducrot; on the whole line the attack was made suddenly and unexpectedly upon the advanced posts of the three corps d'armée, from Champigny as far as Bry-au-Marne.

The effort of the enemy failed; supported by a considerable force of artillery, our troops, notwithstanding the losses they sustained, opposed the most solid resistance. The fight was long and terrible. Our batteries checked the advance of the Prussian columns on the plateau; at 11 o'clock, the efforts of the enemy were entirely defeated. At 4 o'clock the fire ceased, and we remained masters of the field of battle. The 3rd of December, without the enemy being able to harass our retreat, aided by the 100,000 of the second army recrossed the Marne, leaving the Prussian army to carry it its dead.

Our losses on these several days were—

Officers:		Killed.	Wounded.
Second army.....		61	34
Third army.....		8	2
Army corps of Saint Denis.....		3	1
		<u>72</u>	<u>37</u>
Soldiers:		Killed.	Wounded.
Second army.....		711	4,000
Third army.....		192	2,000
Army corps of Saint Denis.....		33	21
		<u>936</u>	<u>6,021</u>
<i>Résumé.</i>			
Officers.....		72	4
Soldiers.....		936	6,021
		<u>1,008</u>	<u>6,025</u>

* It is to be observed that in this number of wounded soldiers are included at least one-third slightly wounded not sent to hospital.

A detailed report addressed to the minister of war will be published hereafter. The losses of the enemy were very considerable; they are in proportion to the efforts he made to carry our positions. Overwhelmed by a formidable artillery fire on all points where he showed himself, our projectiles reached his most distant reserves. In addition, officers, prisoners of war, have stated that several regiments were annihilated by the fire of our infantry in front of Champigny.

By order:

SCHMITZ,
General Chief of Staff.

No. 90.

Mr. Washburne to Mr. Fish.

No. 335.]

LEGATION OF THE UNITED STATES,
Paris, December 12, 1870. (Received January 4, 1871.)

SIR: Since my dispatch of one week ago to-day, No. 328, no events of any importance have transpired in Paris. The extreme cold weather of the last week has prevented any military operations about the city. It is said that preparations are going on for another sortie, and if the weather be favorable, that it is likely to take place the last of this week. In the Paris journals that I have the honor to transmit you herewith, you will find the correspondence between Moltke and Trochu, which will explain itself. The news of the defeat of the army of the Loire, and the retaking of Orleans, as communicated by Moltke, seems to have made but a very little impression on the people of Paris. General Trochu has been fully sustained in his refusal to send an officer to verify the facts, as suggested by Moltke. The government of the national defense and the people of Paris seem to have abandoned all idea of an armistice, or of a peace, and to have made up their minds to resist to the last extremity, and until every resource is exhausted. There are various opinions as to the length of time the city can hold out. Yesterday there was a great bread panic, but it is allayed to-day by the announcement in the official journal that there is bread enough, and that there is no necessity of any rationing for the present. I think the prevailing opinion is that it is possible for the city to hold out until the 1st of February, but that must be guess-work to a very considerable extent. A good many people think that the provisions will give out suddenly, to be followed by an irresistible clamor for a surrender. We shall see. You may infer from what I have written that I do not expect to see the siege raised by a successful sortie. Everything seems almost as bad as can be for the people of Paris as well as France. The suffering in the city is much aggravated by the extreme and unseasonable cold weather. The mortality last week was frightful, over two thousand. A great many old people and a great many children perish from the want of suitable food and from the cold.

I have, &c.,

E. B. WASHBURNE.

No. 91.

Mr. Washburne to Mr. Fish.

No. 338.]

LEGATION OF THE UNITED STATES,
Paris, December 19, 1870. (Received January 14, 1871.)

SIR: There have been no military movements in or about Paris for the last week, and since my dispatch No. 335; but, on the other hand,

the greatest quiet has prevailed. It now seems to be well understood that another sortie is to be attempted day after to-morrow, the result of which you will learn long before this reaches you. There is not the least indication of yielding on the part of the people of Paris, and I see no reason to change the opinion I have hitherto expressed, that the city may hold out until the 1st of February. The surrender appears inevitable, and now only a question of weeks. Peace is regarded by every one as entirely out of the question. The Prussians will hold military possession of Paris, and of course there will not be even the shadow of a French government here. I shall hope to have full instructions as to the course that I shall pursue in the emergencies which are so certain to arise. The telegraph will inform you of the events as they occur, and perhaps it may be necessary for you to advise me by a telegraphic dispatch sent to our minister in London. Unless something unforeseen occurs, I propose to remain here till the end. The last dispatch-bag that I have received left London on the 25th ultimo. We have no news from outside since that date, except the merest scraps brought by pigeons, and a few items from certain German newspapers that have by some means found their way into Paris. In one of these journals is a very brief abstract of the President's message, from which I am glad to learn that the President testifies that I have acquitted my mission, as the protector of the Germans residing in France, in a "satisfactory manner." I am afraid it will be a long time before I get the message in full, the reports of the heads of the Departments, and the first day's proceedings in Congress. The date of your last dispatch is the 10th ultimo, and the last New York dates are of the 12th ultimo.

I have, &c.,

E. B. WASHBURNE.

No. 92.

Mr. Washburne to Mr. Fish.

No. 342.]

LEGATION OF THE UNITED STATES,
Paris, December 26, 1870. (Received January 21, 1871.)

SIR: The "sortie" about which I had the honor to write you on the 19th instant was attempted on Wednesday last, and proved entirely unsuccessful. The loss of men in battle was not very serious, but the army suffered immensely from the intense cold weather of the last five days. I should judge that there will be no further military operations attempted for some time. The failure of the sortie and the great suffering of the army have produced a very bad impression in Paris, and the clubs have become extremely violent. I shall not be surprised to see very serious disturbances take place. Hunger and cold will do their work. The wood-riots have already commenced.

I received, on Tuesday afternoon last, after I had sent off my dispatches, two dispatch-bags from London, one of them leaving there on the 2d, and the other on the 10th instant. The bag leaving on the 10th brought only your official dispatches, and no newspapers. I therefore have London papers only to the 2d instant, and New York papers only to the 19th instant. I am, therefore, without intelligence from the outside for a very long time, except some little items taken from German papers found on prisoners captured in the fight of Wednesday. The most important item of news is the reported denunciation by Prussia of

the Luxemburg treaty of 1867, and it has created quite a sensation here. Not enough is known about the matter, however, to enable any judgment to be formed as to the figure it is to cut in the present situation.

The mortality of the city continues to be very great. The number of deaths last week was 2,728, which is the *precise number* of the week previous. The suffering here has increased very much during the last week, and if it keeps on, and there are no military successes to keep up the spirits of the people, I am not so clear that my prediction in my dispatch No. 337, in regard to the time the city might hold out, will be verified.

The number of poor Germans who are coming to me for aid is increasing very fast. They now number *fifteen hundred and forty-seven*, and are increasing daily. Our legation is thronged with them every day, from morning till night. I have been compelled to employ two additional men to help me. If this thing is to continue, the charge upon the contingent fund will be larger than I have heretofore estimated.

I have, &c.,

E. B. WASHBURNE.

No. 93.

Mr. Washburne to Mr. Fish.

No. 344.]

LEGATION OF THE UNITED STATES,
Paris, January 2, 1871. (Received February 4.)

SIR: Nothing of very great importance has taken place during the last week. The French have been driven off the plateau of Avron by the Prussian artillery, and three of the French forts have been severely bombarded. No very great damage has as yet been done to the forts, but I think the French military authorities have been greatly surprised at the long range and heavy metal of the Prussian guns. Many people are now predicting that the Prussians will have possession of one of the French forts before long. Such possession would enable them to bombard the city. As for myself, I have no information to enable me to form any opinion on the subject. The excessive and exceptional cold weather continues, and the suffering in the city is steadily increasing. The fuel famine is likely to become as severe as the food famine. The deaths in the city for the last week, independent of the number dying in the military hospitals, amounted to the frightful number of 3,280. Great discontent is now prevailing among the poorer classes, but yet there seems to be a disposition to hold out to the last extremity. Opinions differ as to the length of time the city can stand, but I think the prevailing idea is that it will not surrender till the 1st of February. There are some who even think it will hold out longer than that. It is all speculation, at best. I have myself been so often at fault on this subject that I will not hazard a further opinion.

The number of indigent Germans who are now calling on me for assistance is increasing fearfully. It amounts to-day to *seventeen hundred and fifty-three*. They are suffering severely, in spite of all I can do for them. They have become so numerous that the legation could not accommodate them, and so I have hired a small room on the ground-floor immediately under our legation, where I have their wants administered to. I am doing everything in my power to alleviate the suffer

ings of these unfortunate people, but if the siege continue much longer, I really do not know what is to become of them, for the time is fast approaching when money cannot procure what is necessary to sustain human life. My position in this regard is becoming embarrassing to the last degree.

The government has no intelligence whatever from the outside world since the 14th ultimo. I have London papers of the 23d, and New York papers of the 10th ultimo, but I cannot make their contents known. The dispatches I have received from you will be acknowledged in another communication.

With the compliments of the season for yourself and for those gentlemen in the Department with whom I was associated, even for so short a time, I have, &c.,

E. B. WASHBURNE.

No. 94.

Mr. Washburne to Mr. Fish.

No. 345.]

LEGATION OF THE UNITED STATES,
Paris, January 9, 1871. (Received February 4, 1871.)

SIR: I have the honor to state, referring to my dispatch No. 343, that I wrote to Mr. Jules Favre upon the subject of the claim made by Mr. de Montagnie, United States consul at Boulogne, for reimbursement for the expenses incurred by him in the entertainment of French soldiers in that city. Mr. Favre admits promptly the justice of the claim, and states that as soon as possible he will examine the question of the amount of the reimbursement to be paid.

I am, &c.,

E. B. WASHBURNE.

No. 95.

Mr. Washburne to Mr. Fish.

No. 346.]

LEGATION OF THE UNITED STATES,
Paris, January 9, 1871. (Received February 4.)

SIR: The bombardment which the Prussians commenced on the "forts of the east," as they are called, that is to say, upon the forts of Romy, Nogent, Noisy, Remanville, Aubervilliers, and the East, as well as upon the Plateau of Avron, on the 27th ultimo, has continued to the present time, save some brief intervals. It has been violent and long continued, and with the exception of driving the French from the Plateau of Avron, very little damage has been done, if we are to give credence to the official reports. On Wednesday night, the 4th instant, a bombardment "en règle" was commenced against the "forts of the south"—that is, against Issy, Vaunes, Montrouge, Bicêtre, and Ivry. This bombardment has continued up to this time with great fury, though with some short interruptions. It is, therefore, now nearly five days since the Prussian batteries opened their fire on these forts. The cannonading of some of them, particularly Vannes, has been terrific, but the military reports, while acknowledging the extreme violence of the

fire, do not confess to any material damage. Whatever injury may have in reality been inflicted upon any of the forts, one thing is certain, no fort has yet been taken or even silenced, but on the other hand some of them have replied with great spirit, and, it is claimed, with considerable effect. But what is more serious is the bombardment of the city. A great many shells have fallen in the city, on the left bank of the river, particularly in the neighborhood of the Luxemburg and the Pantheon. Some twenty or thirty people have been killed and wounded, including women and children, but no very great damage has been done to the buildings. This bombardment of the city must be considered as an incident to the bombardment of the forts, (the shells passing the forts and coming into the city,) for, I take it, no premeditated bombardment of the place would be commenced until due notice thereof had been given, and a surrender demanded. And I assume further that the diplomatic corps remaining near the government in Paris would be duly notified in case a regular bombardment were to be commenced. And yet it may be said that, in *point of fact*, the city is under bombardment to-day. The matter is assuming a grave aspect, and Mr. Kern, the *doyen* of the diplomatic corps, will call the body together to-morrow to determine what action may be necessary in the premises.

There is no doubt that the people of Paris are greatly surprised to find that the enemy can send his shells into the very heart of their city, for it has always been contended that such a thing was impossible without the possession of one of the French forts. I am quite confident that my residence can now be reached by the Prussian batteries, but it is doubtful whether the legation is within the reach of any battery yet opened. If the shells begin to fall in a too close proximity to us, we shall have to remove to some safer place, provided it can be found.

There has been a good deal of discontent in the city during the past week. It has not, however, taken the direction of a cry for peace, or surrender, but resulting in a sharp arraignment of the government for a failure to perform its whole duty. On Thursday last an address to the people of Paris, signed by a large number of persons, calling themselves "Delegates of the twenty arrondissements of Paris," was placarded in a large red handbill. I send the address herewith as cut from one of the journals. Although a great many people said the arraignment was partially just, yet but few were willing to accept the remedy proposed by replacing the government of the national defense by the revolutionary commune. They evidently adopted Mr. Lincoln's theory, that it was no time to swap horses while swimming a river. The consequence was that the handbills were torn down as fast as they were put up, even in the most turbulent parts of the city. General Trochu made this trouble the occasion of issuing another proclamation, a copy of which I also inclose, and in which he declares "that the governor of Paris will not capitulate."

The bombardment has been the great subject of interest and conversation during the past week. As I am writing I learn that it was excessively violent the latter part of last night, and that it has continued equally violent during to-day. Many people are reported to have been killed. There is apparently not the alarm felt that one might suppose amid all this danger. So far the people have accepted it with a calm and nonchalance almost amounting to recklessness. When it shall become more terrible, however, a panic might seize the population and great trouble may come.

The cold has moderated and the suffering of the people in that respect has been very sensibly ameliorated. The number of deaths for the last

week is three thousand six hundred and eighty, which is quite an increase over the number of the week before. The number of Germans seeking aid from me is still increasing. Nobody could have supposed there were so many left here when the gates of the city were shut. Cases of terrible suffering are brought to my notice every day. I heard a few days ago of a family in the last stage of destitution, absolutely perishing of cold and hunger. I immediately sent my messenger with a small quantity of wood, some wine, chocolate, sugar, confiture, &c. He found a family of seven persons, consisting of the father and mother and five children, cooped up in a little seven-by-nine attic, entirely without fire and nothing to eat but dry bread. They had already burned their last bedstead as a last resource. On a little pallet of straw on the floor was a little boy, seven years old, so weakened by hunger as to be unable to sit up, or scarcely to lift his head. I directed some money to be given them, and I now hope to get them through, unless this siege shall last forever. The number that we are now assisting is two thousand and thirty-nine, an increase of two hundred and eighty-six in one week.

I have not yet received my dispatch-bag which should have left London on the 30th ultimo. My latest London dates are of the 23d, and I have dates of the 10th ultimo.

I have, &c.,

E. B. WASHBURNE.

P. S.—Monday evening, January 9.—Since writing the above I have heard of an accident that befel a young American last night, Charles M. Swazor, of Louisville, Kentucky, was struck by a shell in his own room, No 7, Rue Cassimir de la Vigne, Hotel St. Sulpice. The shell burst in the room and a fragment struck his foot and injuring it to such an extent that amputation was found necessary. He was taken to the American ambulance and the operation was performed by Doctors Swinburne and Johnston this afternoon. The patient is doing well.

E. B. W.

No. 96.

Mr. Washburne to Mr. Fish.

No. 347.]

LEGATION OF THE UNITED STATES,
Paris, January 16, 1871. (Received February 17.)

SIR: It was but a short time after I closed my dispatch No. 346, bearing date the 9th instant, before the bombardment took such proportions as to leave no doubt as to its true character. Bombs, in increasing numbers, continued to fall in the interior of the city, not only upon private buildings, but upon hospitals, schools, churches, ambulances, prisons, &c., and men, women, and children, in considerable numbers, were killed and wounded. Not only has one of our own countrymen been grievously wounded, but the property of Americans has been destroyed, and a further destruction is imminent. In view of the gravity of the situation the diplomatic corps (and the consuls acting in the absence of their respective legations) was convened to consider what was proper for them to do, looking to the protection of the lives and property of their countrymen now in Paris. After several meetings it was agreed to address a communication to Count de Bismarck on the subject, a translation of which I have the honor to inclose you herewith.

To-day is the twelfth day since the bombardment of the city and the forts of the south commenced, and as it is generally supposed with all the power of the besieging forces. The Official Journal of yesterday has an official report of the results of the bombardment of the city from the 5th to the 13th instant. This report shows one hundred and eighty-nine victims, fifty-one killed and one hundred and thirty-eight wounded. Of the fifty-one killed there were eighteen children, twelve women, and twenty-one men. Of the one hundred and thirty-eight wounded there were twenty-one children, forty-five women, and seventy-two men. The public edifices that have been struck are the Val de Grâce, the Sorbonne, the Bibliothèque Sainte Geneviève, the churches of Sainte Etienne du Mont, Sainte Geneviève, Sainte Sulpice, and Vaugirard; the prison de la Santé, the barrack of Vieux Colombier, the hospital de la Pitié, the prison St. Pélagie, l'Ecole Polytechnique, l'Ecole Pratique de Médecine, the convent of the Sacré Cœur, the hospital of Salpêtrière, the normal school, the Institution for the Blind, the hospital of the Infant Jesus, Maternité, and de Loureine, and the ambulances of St. Perine and of the Dames Augustines. The number of private buildings struck is about three hundred and fifty, but many of them but little damaged. No building of any great value has yet been burned. No bombs have yet fallen on the right bank of the Seine. When the length of time is considered that the bombardment has been going on, and the enormous quantity of material that has been expended, the small number of killed and wounded and the small amount of actual damage is surprising. The bombardment so far has not had the effect of hastening the surrender of the city. On the other hand it has apparently made the people more firm and determined. In the presence of a common danger the feeling of hostility to the government, which was so openly manifested some two weeks ago, has been greatly modified. So much in regard to the bombardment of the city. It is hard to tell what the real state of facts is in regard to the damage done to the forts. The forts of the east have been bombarded for twenty, and the forts of the south for twelve, days, and one thing is certain that no fort has been either taken or silenced. How long any or all of these forts can hold out I have no means of judging. With the possession of one of these forts the besiegers would have a much larger part of the city immediately under their guns, and a bombardment from such a point can only be contemplated with horror. And with the spirit now manifested by the people of Paris I do not believe the city would then yield. In the event of the city not yielding to bombardment or assault, the question always is, how long before it will have to yield to famine? I am reluctant to speak further on that subject, as my predictions have so often failed of verification. I saw yesterday the gentleman who has charge of rationing the people of the arrondissement in which I live, and he assured me they had enough provisions for *two months yet*. While the amount of flour was running short, he said they had a great quantity of grain, and the only trouble was in making it into flour fast enough to supply the demand for bread. I met last night a gentleman in a high official position, and whose duty it has been to gather all the information possible in regard to the amount of food in the city, and he says there is enough to last easily till the first of March. The bread will be of a poor quality, but there will be enough of it. Of rice there is a very large quantity, and an unlimited supply of wine, coffee, sugar, &c. Another man, claiming to be equally well informed, will positively assure you that there are not more than provisions enough to last more than two weeks longer at the

outside. You will see, therefore, how widely the opinions of people differ on this most vital question.

We are again having cold weather, and the suffering of the people has been intensified. The number of deaths is steadily increasing, and last week it amounted to *thirty-nine hundred and eighty*.

My dispatch-bag which left London on the 30th ultimo, only reached me on Tuesday night the 10th instant. It brought me home-papers to the 17th, and London papers to the 30th ultimo. The bag which undoubtedly left London on the 6th instant has not yet arrived.

I have, &c.,

E. B. WASHBURNE.

Sir: For some days past a large number of shells, coming from positions occupied by the besieging troops, have entered the interior of Paris.

Women, children, and sick persons have been struck. Among the victims there are many who belong to neutral states. The lives and property of persons of all nationalities, residing in Paris, are in constant danger.

These things have happened without the undersigned (the greater part of whom have no other mission for the present at Paris, except to watch over the security and interests of their countrymen) having been enabled by a preliminary notice to warn against the dangers which menaced them, those of their countrymen who had been hitherto prevented by "force majeure," and especially by the impediments placed in the way of their departure by the belligerents, from placing themselves in safety. In presence of events of so grave a character, the members of the diplomatic corps present at Paris, with whom are associated in the absence of their respective embassies and legations, the undersigned members of the consular corps, have thought it necessary, with a full sense of their responsibility toward their respective governments, and of their duties toward their fellow-countrymen, to concert upon the measure to be taken.

Their deliberations have led the undersigned to the unanimous resolution to request that, in accordance with the recognized principles and usages of the law of nations, steps be taken to permit their countrymen to place themselves and their property in safety.

Expressing with confidence the hope that your excellency will interpose your good offices with the military authorities, in accordance with the object of this request, the undersigned take this opportunity to beg you will receive the assurances of their very high consideration.

PARIS, *January 13, 1871.*

[Here follow the signatures of the diplomatic corps present in Paris.]

His Excellency the COUNT BISMARCK-SCHÖNHAUSEN,
Chancellor of the North German Confederation, Versailles.

No. 97.

Mr. Washburne to Mr. Fish.

No. 348.]

LEGATION OF THE UNITED STATES,
Paris, January 16, 1871. (Received February 17.)

SIR: In my dispatch No. 321, dated November 19, 1870, I estimated that the amount to be paid out of the contingent fund of this legation, as connected with the expenses entailed upon it by virtue of our protection to the subjects of the North German Confederation, would not be likely to reach more than fifteen hundred dollars. That sum was independent of what I proposed should be paid to persons connected with the legation. At the time I had the honor of addressing you that dispatch, I supposed that my duties in that regard would have been ended before this time. Instead of that being the case, they have greatly increased, and no man can now venture to predict how long they are

likely to continue. I am to-day furnishing aid to *twenty-two hundred and seventy-six* destitute Germans, and I have had to employ three additional persons in my legation to perform the service necessary to look after these people. Besides, it is necessary to consider the vastly enhanced prices of everything which we have to purchase, as incidents to the state of siege. For instance, I have had to pay at the rate of more than fifty dollars a cord for wood. There is besides quite an amount to pay for carriage-hire. Instead, thererore, of three thousand dollars (including extra compensation) which I estimated, it may in the end reach four thousand. I have thought proper to thus call this matter to your attention, in order that you might bring it to the notice of Congress, provided you should deem it necessary.

I have, &c.,

E. B. WASHBURNE.

No. 98.

Mr. Washburne to Mr. Fish.

No. 350.]

LEGATION OF THE UNITED STATES,
Paris, January 23, 1871. (Received February 17.)

SIR: I have the honor to send you herewith a copy of a correspondence I have had with Count de Bismarck, (including one letter to Mr. Motley, and one to Mr. Moran,) on the subject of my dispatch-bag to and from Paris to London.

I have, &c.,

E. B. WASHBURNE.

[Translation.]

VERSAILLES, December 6, 1870.

SIR: The "Daily News" newspaper, of the 24th November, contains an article from its Paris correspondent, stating that the English papers arrive regularly by the dispatch-bag which is sent you each week by the United States legation in England. He adds a detailed account of the eagerness of the French journalists to peruse the English papers, so as to reproduce their contents in the Paris papers.

If the statement alluded to be exact, it would imply relations incompatible with the rules dictated by the interests of military operations during the investment of Paris. The military authorities cannot sanction that foreign papers of recent date should reach the besieged without having been previously examined.

In obtaining for the United States legation the privilege of receiving closed dispatches within a besieged fortress, I allowed myself to be led by the conviction that we had not to fear any inconvenience liable to compromise our interest.

I believed it to be understood that the authorization only applied to official communications between the Washington government and the United States legation at Paris. The King's ambassador at London is instructed to make the like remarks to your colleague, Mr. Motley, who will, doubtless, know on his side how to put an end to any abuse if there should be such.

Receive, sir, the renewed assurance of my high consideration.

V. BISMARCK.

MR. WASHBURNE,
Minister of the United States of America, Paris.

PARIS, December 12, 1870.

SIR: I have the honor to acknowledge the receipt of your letter of the 6th instant, in relation to the reception of the London papers at this legation.

I took it for granted that a few numbers of the London papers of an old date could do neither good nor harm to any interest, and hence I permitted them to lie upon my table to be perused by people who were sufficiently interested to come and look over

them. But, as some of the Paris journals charge that they are sent to me by the Prussian authorities in the hope that the bad news they contain will discourage the French, and as you consider their reception incompatible with the rules dictated by your military operations, I shall decline receiving any more, and I have this day written to London to have no more sent to me.

It is proper for me to say that I received some London papers in the bag which arrived on Saturday last. They will be seen by no person whatever, excepting myself, and I shall most strictly guard their contents. I hope you will find no objection to my receiving, through the bag, the papers from my own country, with the understanding that they are particularly for my own perusal. I would be very glad if you would instruct Count Bernstorff to consult with Mr. Motley on the subject. I shall write to Mr. Motley not to send me even the American journals without the assent of your government, signified by Count Bernstorff.

The bag arriving on Saturday only reached here the sixteenth day after leaving London, and I am curious to know whether the great delay was on account of the French military authorities refusing to receive it. It ought not really to take more than four or five days for the bag to come from London here, and I wish that hereafter I might receive it within that time.

I have, &c.,

E. B. WASHBURNE.

His Excellency COUNT DE BISMARCK, *ſc.*, *ſc.*, *ſc.*

Mr. Washburne to Mr. Motley.

PARIS, December 12, 1870.

MY DEAR COLLEAGUE: Count Bismarck writes that my reception of the London journals is incompatible with the interest of their military operations before Paris, and he says you will be conferred with in the same sense. I desire, therefore, that no more London papers be sent to me. I find their reception only a nuisance. It seems now the Prussians object, and some of the French papers have charged that they are sent to me by Bismarck, in the hope that the bad news they contain will demoralize and discourage the Parisians. It is, therefore, best that I should receive no more London papers, but I have written Count de Bismarck that I hope he will not object to my receiving our own home papers, and that he will instruct Count Bernstorff to consult with you on the subject, and if Count B. does not assent to it, you will be good enough not to send me the American papers.

The Prussian authorities having granted me the privilege of having a bag, their understanding of what it should contain must be conformed to, and I do not wish that it should cover anything improper.

Believe me, &c.,

E. B. WASHBURNE.

[Translation.]

VERSAILLES, December 15, 1870.

SIR: I had the honor to receive the letter which you have kindly addressed to me under date 12 December, in relation to the English papers which reach you by the dispatch-bag forwarded from London, and I hasten to assure you that you have misunderstood the bearing of my remarks.

In addressing you my letter of the 6th December last, I only intended to call your attention to the abuse noted by the correspondent of the Daily News, convinced that you were unaware of it, and that this would be sufficient to put an end to it, if it had existed.

But I had no intention to deprive you personally of the English or American papers which you wish to receive, and you are entirely free to have them come for your own private use. I am persuaded that you will take the necessary precautions, so that no inconveniences shall result incompatible with our military interest.

The King's ambassador at London is instructed to inform Mr. Motley that there is no opposition on our side to his continuing sending you the English and American papers which you wish to receive.

Receive, sir, the assurance of my high consideration.

V. BISMARCK.

His Excellency Mr. E. B. WASHBURNE,
Minister of the United States of America, Paris.

Mr. Washburne to Mr. Moran.

PARIS, January 1, 1871.

DEAR MR. MORAN: Please send me no more London papers; only cut out the telegraphic dispatches from the United States, from day to day, and send them. It is too much to be the only person, in a city of two millions of people, who receives any outside news. It has become a great annoyance, and I prefer being without news to being subject to it. I hope you will receive permission to send all my private letters. I expect you will send me all the American papers as usual.

Yours, truly,

E. B. WASHBURNE.

PARIS, January 4, 1871.

SIR: The reception of the London journals may involve me in trouble, and I write Mr. Moran by General Read not to send me any more, only inclosing me the telegraphic dispatches from the United States which appear in them. Some Paris papers represent that I have given out news; others say that I give out nothing, because the news is favorable to the French arms; and attempts have been made to bribe my servants to get hold of them. I conclude the only safe way is to receive no more English papers. I shall expect to receive my home papers as usual, and hope also to have permission to receive my private letters.

I have the honor, &c.,

E. B. WASHBURNE.

His Excellency COUNT DE BISMARCK, &c.

VERSAILLES, January 15, 1871.

SIR: I beg to inclose extracts of three letters addressed by persons residing in Paris to correspondents abroad. They are taken out of a balloon sent up in Paris and captured by our men. You will see from the copied passages that the facilities we have accorded to the correspondence of the American legation in London are known to private persons, some of them French, and made use of by them in order to carry on a clandestine correspondence with other people, some of them French. Those extracts further prove that Mr. Hoffmann is expected to lend a helping hand to an epistolary intercourse of that kind. I trust your excellency will effectually prevent the members of your legation from lending themselves to a practice, the continuance of which would make it imperative for me not to allow any letters to pass, except those bearing the seal of the State Department of Washington. It is the possibility of occurrences like these that makes the military authorities indisposed to favor a prompt expedition of your correspondence. Having reluctantly acceded to the whole arrangement, they would have preferred sending your dispatch-bag not to London, but directly to Washington; and now the question may be raised by them of cutting off any correspondence between you and London. In that case the best way, in my opinion, of obtaining a prompter expedition with the least inconvenience to you, would be to have the dispatch-bags for you made up and sealed, not in London, but in Washington, and to send private letters addressed to you personally together with, but not inclosed in, the bag.

Please let me know if such an arrangement would eventually suit you.

I remain, with the highest consideration, your excellency's, &c.,

V. BISMARCK.

His Excellency Mr. E. B. WASHBURNE,

Minister of the United States at Paris.

VERSAILLES, January 15, 1871.

SIR: I have the honor to transmit to your excellency the dispatch-bag received from London. In accordance with the wish expressed in your letter of the 13th instant, I have, on my personal responsibility, immediately forwarded your dispatch-bag to London. In so doing I acted against the principle adopted by the general staff, that no sealed packages or letters shall be allowed to pass through our lines in either direction without a stoppage of several days. The motive of this rule is the apprehension of the general staff that even the most scrupulous loyalty and attention on the part of the responsible chief might not always exclude the possibility of missives being, by irresponsible parties, introduced into an official cover.

However much I may, from personal consideration, feel inclined to oppose this restriction in all cases where you are concerned, I cannot help perceiving that all my

endeavors will be fruitless after the impression produced upon our general staff by the balloon letters which form the subject of another communication.

I therefore regret to state that it is out of my power to establish the present instance of immediate transmission as a precedent.

I remain, &c.,

V. BISMARCK.

His Excellency E. B. WASHBURNE,
Minister of the United States at Paris.

LEGATION OF THE UNITED STATES,
Paris, January 19, 1871.

SIR: I have the honor to acknowledge the receipt of your two letters, both under date of the 15th instant, relating to matters connected with the transmission of the United States dispatch-bag to and from this city. One of those letters incloses extracts from those letters said to have been addressed by persons residing in Paris to correspondents abroad, such letters having been sent out in a balloon which was captured by your men.

There is no doubt but the facilities for correspondence which the legation of the United States at Paris has had are known in London and elsewhere, and that certain persons have sought to abuse those facilities, and, in order to accomplish their purposes, have attempted to make an unwarrantable use of this legation. A good many letters have found their way to our legation here. Many have been sent by your excellency, some by Count Solms, and some by Count d'Hatzfeldt. These letters having, as I have assumed, passed through your hands, I considered that I had a sufficient guarantee that they contained nothing compromising to either belligerent, and I caused them all to be delivered to the parties to whom they were addressed, without examination.

Of the letters that have found their way into my dispatch-bag, coming from London, some were addressed to my compatriots who have been detained in Paris. Such letters, after having been examined and found to contain no allusion to military or political matters, have been delivered.

A very few letters have come to me addressed to people of nationalities other than French, and after examining them and finding that they contained no allusion to military events, I caused them also to be delivered. Perhaps in half a dozen cases I have delivered some very brief notes to French people well known to me, but only after the most scrupulous examination which showed them to contain absolutely nothing but reference to family matters. And I may say that nine out of ten of the small number of letters I have received through my dispatch-bag have not been delivered by me at all, as I considered that it was not in accordance with your understanding of what the bag might contain. I have to remark, therefore, that no letters, received through my dispatch-bag from London, have ever gone out of this legation which contained anything in regard to military or political events, or containing anything in the least degree compromising to either of the belligerents; and I beg to say further, that I have equally guarded the contents of my outgoing bag.

In this connection permit me to observe that you will find inclosed herewith an envelope, containing certain letters addressed to persons in Paris, and which you sent to me by the last parlementaire. I know nothing of these persons, and I know no reason why I should deliver the letters. I therefore have the honor to return them to you.

As you suggest that the extracts of the balloon letters prove that Colonel Hoffmann was expected to lend a helping hand to the epistolary correspondence, I am authorized by him to state that he has no idea of the parties who wrote two of the letters in which his name has been used, and he denies in the most emphatic manner that they could have been authorized to use his name in any way. As to the other party, Mrs. Chaudor, an American lady, whom he says he found in great distress on account of the sickness of her children with the small-pox, in Brussels, he consented to have information sent to him in regard to them. He had no conception that this act of pure kindness would be taken advantage of to get in a letter to the gentleman therein named, whom he had never heard of. I make haste to speak of Colonel Hoffmann as a gentleman of the most unquestioned loyalty and honor, a man who thoroughly appreciates his duties and obligations, and holds to a most rigorous observance of them. I have no idea who the writer of the letters is who speaks of receiving news by the "intermediary of Mr. Washburne," but I do know that he never had any authority from me to use my name in that way, and in doing so was guilty of a gross impertinence and a gross outrage.

I beg to thank your excellency for your prompt transmission of my bag to London, in accordance with the request of my letter of the 13th instant.

In relation to the suggestion which your excellency makes, that my dispatch-bag shall be sent directly to Washington, not to be opened in London, I have to state that

such an arrangement would deprive me of communicating with the United States legation in London, and through that legation, in case of need, with the Washington Government by telegraph.

In regard to sending my dispatches from Washington in a bag made up there to be transmitted directly to me here, its practical operation at the present time would be to deprive me of all communication from my Government. My weekly dispatches from Mr. Fish for the last four weeks are now on their way from Washington to Paris. If I am deprived of a bag from London, those dispatches, therefore, could not reach me under the seal of my Government, which is the only way that I would feel authorized to receive them. Independent of that, it will take between three and four weeks for me to get a letter to Washington, requesting that the bag may be made up there directly for Paris. In the mean time, dispatches to me would be coming weekly to London, with the expectation that I should receive them in the usual manner. And further, after my letter should have finally reached Washington, requesting that the bag should be made up there for Paris, it would take the contents of such bag three or four weeks more to reach me.

Hence, your excellency will perceive that if I should receive no bag from London I should be deprived of hearing from Mr. Fish for a period of some three months.

With a knowledge, therefore, of the views of my Government on this subject, and its opinion that it has a right to promptly communicate with me as its representative near the government of France, it is impossible for me to acquiesce in the arrangement which you have done me the honor to recommend. I have concluded, therefore, to send you by the parlementaire, which I hope to obtain for Tuesday next, my dispatch-bag addressed in the usual way to the United States dispatch agent in London. If you should feel constrained to decline sending it forward without an unreasonable delay, I will thank you to return it to me here by the first parlementaire. And also, if you should feel constrained to retain my bag sent to you from London to Versailles beyond a reasonable time, I will thank you to return it to London.

Out of respect, due alike to myself, as well as to the Government which I have the honor to represent, I should feel compelled to decline receiving or transmitting any dispatch-bag or any communications through your military lines upon terms and conditions which might be construed as implying a distrust of my good faith and of the loyal manner in which I have discharged my duty toward both belligerents and to my own Government, to which I am alone responsible for my official action.

Before closing this communication, I trust your excellency will pardon me a further observation. For the period of six months I have been charged with the delicate, laborious and responsible duty of protecting your countrymen in Paris. Of the manner in which those duties, having relations to both belligerents, have been performed, I do not propose to speak; I am content to abide by the record made up in the State Department at Washington. But I can state that there has never been a time when these duties have involved graver consequences and responsibilities than at the present moment. As I have expressed to you before, I have been astonished at the number of Germans who, as it turns out, were left in the city when the gates were closed. Having exhausted their last resources, and finding themselves in a state of the most absolute destitution, they have applied to me for protection and aid, which I have so far been enabled to extend to them from the funds placed in my hands by the royal government. The number of these people amounts to-day to two thousand three hundred and eighty-five (2,385,) and it is certain, had there not been some one here to protect and aid them, many must have inevitably perished of cold and starvation. My position in relation to these people, and to your government, is known to the people of Paris, and as the siege wears on and the exasperation is intensified, I now find myself exposed to the hostility of a certain portion of the population of the city. While your military authorities seem to be agitated by the gravest fears in relation to my dispatch-bag, I am daily violently assailed by a portion of the Paris press as a "Prussian representative," and a "Prussian sympathizer," and a short time since it was proposed in one of the clubs that I should be hung—rather a pleasant diversion in these dreary days of siege through which we are passing.

I will only add that, so long as I am the diplomatic representative of my country in Paris, I shall discharge every duty, even to the end, and in the face of every circumstance, that I owe to my own Government, and every duty that I have by its direction assumed towards the subjects of the North German Confederation.

I have, &c.,

E. B. WASHBURN.

His Excellency COUNT DE BISMARCK, *fc., fc., fc.*

No. 99.

Mr. Washburne to Mr. Fish.

No. 351.]

LEGATION OF UNITED STATES,
Paris, January 25, 1871. (Received February 17.)

SIR: The past week has been one of great interest. The government issued its order for the rationing of bread on the 18th instant, which is an evidence of the "beginning of the end." The amount issued is three-fifths of a pound to all, except children under five years of age, who receive one-half of that quantity. This allowance is small, and the quality of the bread issued is very poor indeed. It has only about thirty-one hundredths of flour. The balance is made up of oatmeal and rice, and some say peas and beans form part of this admixture. It is a sad sight to see the long *queues* at all the bake-shops. One sees posted at all the cafés the notice to their customers that they must bring their bread with them. The *mairies* are rationing very small quantities of horse-meat, a little rice, beans, peas, and occasionally herring and cod-fish. The quantity of coffee, sugar, and wine is sufficient for the siege, and can be had at enhanced prices.

The third grand *sortie* was made on Thursday morning last beyond Mont Valérien, and in the direction of Versailles. The movement was under the direction of General Trochu himself, his third army corps being commanded respectively by Vinoy, Ducrot, and Bellemon. The French appear to have had some success in the morning, and to have captured some of the advanced positions of the enemy, but after a bloody fight, continuing nearly all day, they were finally driven from the positions they had captured under the protection of the guns of Mont Valérien. There has been no official statement of the French killed and wounded, and the number of men placed *hors du combat*.

The number of killed and wounded is variously estimated at from four to eight thousand. I, of course, have no means of judging as to the correctness of any of these estimates.

The attack was not renewed on Friday morning, but on the other hand the troops began coming into the city. The national guard participated largely in this *sortie*, and it is said that they fought very creditably. The complete failure of the movement, with so great a loss of men, produced a very profound impression in the city on Friday. The feeling became very much intensified toward evening, when the government published a pigeon dispatch stating that Chauzy had been defeated, and had lost two thousand prisoners and twelve guns. The agitation in the evening became intense, particularly in the revolutionary parts of the city, and the clubs were crowded with an exasperated and excited population.

On Saturday the excitement was still greater, and the most violent and revolutionary movements were set on foot in Belleville, La Villette, and Montmartre. Measures having been concocted, on Saturday night the prison of Mazas was attacked and many of the insurrectionists of the 31st October, who were there imprisoned, were set at liberty, and among them Flourens, who was the leader of the *émeute* of that date. It would seem extraordinary that in a city where there are five hundred thousand soldiers a prison like that of Mazas should have been left to be captured by an insignificant body of men. It is said, however, that the prison was not actually *forced*, but was opened by the treachery of the director.

On Sunday (yesterday) the Journal Officiel announced that the com-

mandant-in-chief of the army of Paris would henceforth be separated from the presidency of the government; that General Vinoy was made commander-in-chief of the army of Paris; that the title and functions of the government of Paris were suppressed; that General Trochu would be continued as the president of the government. This was considered a half-way measure, and did not seem to give general satisfaction. It was claimed that Trochu had completely lost the public confidence, and that he ought no longer to occupy any position whatever, in the government.

During all the day of Saturday, and on Saturday night, arrangements were being made by certain turbulent spirits, and by some battalions of the national guard from Belleville, in addition to attacking Mazas, to make an attack on the government.

Hence, after they had delivered the prisoners from Mazas they attempted to seize the *mairie* of the twentieth arrondissement, (which includes Belleville,) and to install themselves there as the headquarters of the insurrection. They remained there long enough to steal all the bread which had been laid aside for the poor. Notices of the invasion of the *mairies* having been conveyed to the military commander in that section of the city, he proceeded hither with a few companies of the national guard, and very soon summarily expelled the insurgents.

About 1 o'clock in the afternoon of yesterday crowds of people, including men, women, and children, particularly from Belleville, began flowing toward the Hôtel de Ville, crying "*Donnez-nous du pain,*" "*Nous mourrons de faim,*" "*Vive la Commune!*" "*A bas Trochu!*" After remaining in the great square in front of the Hôtel de Ville for an hour or two the crowd began slowly to disperse. About 3 o'clock, however, a troop of about five hundred men arrived in front of the Hôtel. They marched in order with shouldered arms, and with drums beating the charge. They massed on the sidewalk in front of the hotel, crying "*A bas Trochu!*" "*Vive la Commune!*" After some parleying shots were fired from the ranks of the mob, and an officer of the *garde mobile* received three balls and fell seriously wounded upon the sidewalk. Then an indiscriminate firing took place between the mobiles guarding the Hôtel de Ville and the rioters. Some of the insurgents had posted themselves in houses opposite the Hôtel de Ville and directed a fire against the windows of the first story of the building. They also threw out a certain number of bombs and explosive balls. And now the *rappel* commenced to beat in the quarters near to the Hôtel de Ville, and soon afterward in other localities. The national guards everywhere rallied with great alacrity to sustain public order, and in a few minutes the insurgents were put ingloriously to flight. The Journal Officiel of this morning says that in this "combat" there have been five persons killed and eighteen wounded. There has since been no further trouble. It was quiet all last night, and the most perfect tranquillity reigns to-day.

Vinoy is fully installed as the commander of the army of Paris, and has issued a soldierly order of the day. His position is one of the most difficult that was ever undertaken by a soldier, and of course it is idle for me to speculate as to the line of action which he will adopt.

The government published yesterday morning a dispatch from Chauzy, dated the 16th of January, which showed that his army was in a very bad position. This news has added still further to the discouragement of the people of Paris, but no whisper of surrender is yet heard. In all of these terrible circumstances no man talks either of surrender or of peace. The bombardment has so far utterly failed of accomplishing what was its apparent object. This is the nineteenth day, and its effects

now are not as great as they have been. The number of killed and wounded cannot exceed three hundred, and the material damage is not very great. No fort has either been or is likely to be taken; and I hold to my opinion that the city will only be taken by famine. It may, however, fall suddenly, and the siege, now extended over four long months, be ended before this dispatch shall reach you. The government seems to have suddenly waked up to an unusual degree of energy. The Journal Officiel of this morning publishes one decree suppressing all the clubs; another decree to facilitate the rapid administration of military justice, and yet another suppressing the red republican journals, Le Réveil and Le Combat.

The number of deaths in the city per week is still increasing. Last week the number reached four thousand four hundred and sixty-five, (4,465,) not counting the deaths in the hospitals, which are estimated for the last week at one thousand.

The weather has moderated very much, and the suffering by cold has been greatly alleviated.

I have, &c.,

E. B. WASHBURNE.

No. 100.

Mr. Fish to Mr. Washburne.

No. 228.]

DEPARTMENT OF STATE,

Washington, January 24, 1871.

SIR: I have to acknowledge the receipt of your dispatch No. 341, of the 26th ultimo, inclosing a translation of a letter from Mr. Jules Favre, from which it appears that the tax on the apartments of citizens of the United States, who left Paris, which it was proposed to levy, will not be enforced.

The Department approves the course which you have pursued concerning this question, and I congratulate you upon your success in obtaining the repeal of so unjust a regulation or decree.

I am, &c.,

HAMILTON FISH.

No. 101.

Mr. Washburne to Mr. Fish.

No. 353.]

LEGATION OF THE UNITED STATES,

Paris, January 30, 1871. (Received February 18.)

SIR: I have the honor to inclose you herewith a copy of a letter I have received from Count de Bismarck, in reply to my letter to him on the subject of the dispatch-bag.

I have, &c.,

E. B. WASHBURNE.

Count de Bismarck to Mr. E. B. Washburne.

VERSAILLES, January 28, 1871.

SIR: I had the honor of receiving your answer, dated the 19th instant, to my two letters of 15th, relating to your correspondence with the United States legation in London. I should very much regret if you should have construed anything in these two letters so as to convey the indication of any complaint against you. Nothing, indeed, could be further from my thought, and I take pleasure in renewing the expression how deeply sensible I am of all the trouble you have in carrying on your correspondence with the authorities in Paris, and in taking care of our countrymen there. But the balloon letters having been brought officially under my notice by the military authorities, I thought it my duty to inform you of the reference made in those letters to your legation, and to that in London. The delay occurred now and then in the transmission of your dispatch-bags, is not occasioned by any doubt as to the right of your Government to correspond with you, but by obstacles it was out of my power to remove. I hope that for the future there will not be any more delay of that kind.

I avail myself, &c., &c.,

V. BISMARCK.

No. 102.

Mr. Washburne to Mr. Fish.

LEGATION OF THE UNITED STATES,

No. 355.] *Paris, January 30, 1871. (Received February 18.)*

SIR: The crisis has at last been reached. In my dispatch of a week ago, No. 351, I spoke of the discouraging state of things in Paris, but of the still resolute determination of the people not to surrender. I added, however, that the city might fall suddenly, and the siege be ended before my dispatch should reach you. The disturbances of Sunday, the 22d instant, and the additional news which the government received on Monday, of the substantial defeat of all the outside armies, taken in connection with the utter impossibility to feed Paris but a few days longer—all taken together imperatively demanded immediate action on the part of the French authorities. Paris had held out beyond every reasonable calculation, and the population had suffered all the horrors of famine, cold, and bombardment. From the 27th of this month only seven days of provisions remained, limiting to each one only the small possible amount necessary to sustain human life. On Monday evening, a week ago, negotiations were commenced at Versailles between Mr. Jules Favre and the Count de Bismarck. Of course the greatest anxiety has existed in Paris as to what would be the result of those negotiations. The general idea has been that Paris, resisting to the end, would have to capitulate unconditionally. Such a thing as a general armistice was not contemplated, and while Paris should fall into the hands of the Prussians, it was supposed that the government of the national defense would still hold its existence in the provinces and continue the war *à outrance*. I was myself inclined to take the same opinion, and in view of the probable fact that in case of a surrender there would be no shadow of a government of France at Paris, I wrote to you in my No. 338, asking for instructions as to the course I should pursue in such an emergency. I thought that it would be necessary in such case to leave Paris and repair to the seat of the French government. Instead of the absolute surrender of the city and the military possession of it by the Prussians, we have the armistice, a copy of which, from the official journal, I have the honor to send you herewith. I do not see anything in the present situation which will necessitate my leav-

ing Paris to repair to Bordeaux, for the seat of government will remain here until such a time at least as the armistice shall expire and peace fail to be made.

I also send you the decree of the government of the national defense convoking the national assembly at Bordeaux on the 12th proximo, and also fixing the number of delegates to the assembly. You will see that the number of delegates to the assembly is seven hundred and fifty-three, which I think is quite too large, particularly when it is considered that the assembly would have but one week in which to conclude the important work for which it has been convoked. We are now entering on a new and interesting phase of the events which have been convulsing, not only the belligerent powers, but the whole civilized world, for the last six months. It is to be seen whether a peace can be made on terms which will be acceptable by the French nation, or whether the war is to be indefinitely continued. You will be likely to receive full information by telegraph of the action growing out of this armistice and of the national assembly before this dispatch shall reach you, and I will not, therefore, indulge in any speculations as to the probable shape which things will take.

I have, &c.,

E. B. WASHBURNE.

[Inclosures not transmitted herewith.]

No. 103.

Mr. Washburne to Mr. Fish.

LEGATION OF THE UNITED STATES,

No. 356.]

Paris, January 30, 1871. (Received February 1st.)

SIR: I have the honor to send you herewith a copy of the reply of Count de Bismarck to the diplomatic corps in relation to the bombardment of Paris, without previous notice, together with a copy of the rejoinder of Mr. Kern.

I have, &c.,

E. B. WASHBURNE.

[Translation.]

VERSAILLES, January 17, 1871

Count de Bismarck-Schoenhausen, Chancellor of the North German Confederation at Versailles to Mr. Kern, minister of the Swiss Confederation at Paris.

SIR: I have had the honor to receive the letter of the 13th of this month, signed by you and by the minister of the United States, as well as by several diplomatic agents formerly accredited to Paris, in which, invoking the principles of the law of nations, you request me to use my influence with the military authorities in order that such measures may be taken as will enable the fellow-countrymen of the signers of the letter to protect themselves and their property during the siege of Paris.

I regret that it is impossible for me to admit that the reclamations which the signers of the letter have done me the honor to address to me, find in the principles of international law the authority necessary to justify them. It is undeniable that the German nation, standing alone in modern history, to transform the capital of a great country

into a fortress, and to make a vast fortified camp of its environs, inclosing nearly three millions of inhabitants, has created for those inhabitants a distressing state of things which is much to be regretted. The responsibility falls exclusively upon those who have chosen to make of this capital a fortress and a battle-field. Under all circumstances, those persons who have chosen their residence in a fortress, and continued of their own accord to reside there during the war, should have been prepared for the inconveniences which have ensued.

Paris being the most important fortress in France, in which the enemy has concentrated his principal forces, which, from their fortified positions in the midst of the population, constantly attack the German armies by their sorties and by the fire of their artillery, no good reason can be alleged why the German generals should give up the attack upon this fortified position, or conduct their military operations in a manner which would be in contradiction with the object they have in view.

I take the liberty to recall to you, in this place, that on our side nothing has been neglected to preserve the peaceful portion of the population belonging to neutral countries from the inconveniences and the dangers inseparable from a siege. On the 26th of September last, the secretary of state, M. de Thiele, addressed a circular upon this subject to the ministers accredited to Berlin, and I stated for my part, in a letter bearing date October 10th last, addressed to his excellency the Papal nuncio, and other diplomatic agents still residing at Paris, that the inhabitants would henceforth have to bear the effects of military operations. A second circular, dated October 4th last, attempted to show the consequences which must result to the civil population of Paris from a resistance prolonged to extremities. On the 29th of the same month the contents of this circular were communicated by me to the minister of the United States of America, whom I begged at the same time to communicate it to the members of the diplomatic corps. It results, from what precedes, that warnings and recommendations to leave the besieged city have not been wanting to the subjects of the neutral powers, although these warnings, inspired by a sentiment of humanity and by the consideration which we desire to show toward citizens belonging to friendly nations, are as little prescribed by the principles of international law as the permissions which were granted to pass our lines.

The recognized usages and principles of the law of nations require still less that the besieger should notify the besieged of the military operations which he thinks it necessary to undertake in the course of the siege, as I have already had the honor to state as regards the bombardment, in a letter addressed to Mr. Jules Favre on the 26th of September last.

It was evident that the bombardment of Paris must take place if resistance was prolonged, and it was therefore to be looked for.

Although an example of a fortified city of such importance, and inclosing within its walls armies and material of war so numerous and abundant, was unknown to Vattel, he says upon this subject:

"To destroy a city by shells and hot shot is an extremity which must not be resorted to without very strong reasons. But it is authorized, however, by the laws of war, when it is impossible to reduce otherwise an important place, upon which may depend the success of the war, or which may serve to inflict dangerous blows."

In the present case, it would be the more unjustifiable to raise an objection against the siege of Paris, inasmuch as our intention is not at all to destroy the city, (which would, however, be permissible, according to the principle laid down by Vattel,) but to render untenable the central and fortified position where the French army prepares its attacks upon the German troops, and which serves them for a place of refuge after such attacks. I take the liberty finally to remind you, sir, as well as the other signers of the letter of the 13th instant, that after the warnings had been given, which I have recalled to your recollection, it was nevertheless permitted during whole months to those neutrals who made the request, to pass our lines without other restriction than their identity and their nationality should be certified, and that to this day our avant-postes place at the disposition of the members of the corps diplomatic, and of those persons whose presence is required by their governments or by their diplomatic agents, the safe conduct necessary for them to pursue their journey. Many of the signers of the letter of January 13th instant were notified some months since that they could pass our lines, and they have for a long time had the authorization of their respective governments to leave Paris. Hundreds of subjects of the neutral powers, whose representatives have addressed to us the same requests in their favor, are in a similar position. We have no authentic knowledge of the reasons which have prevented them from availing themselves of a permission which they have had for a long time; but if private communications are to be believed, it is the French authorities who have opposed their departure, and even that of the diplomatic representatives. If this information is correct, we can only recommend to those who are compelled against their will to remain in Paris to address their complaints and their protestations to the representatives of the existing power. Under all circumstances, I feel authorized, after what I have stated, not to admit, as far as the German authorities are concerned, th

assertion contained in the letter of January 13th instant, that the countrymen of the signers have been prevented from withdrawing themselves from danger by the "difficulties opposed to their departure by the belligerents."

We will even maintain, at this day, the permission accorded to the members of the diplomatic corps to pass our lines, considering this to be a duty of international courtesy, however difficult and injurious it may be to our military operations in the present state of the siege. As regards their numerous countrymen, I regret that I can not, at the present day, see any mode, other than the surrender of Paris, for them to withdraw themselves from the dangers inseparable from the siege of a fortress.

If it were admissible in a military point of view to organize the departure from Paris of a portion of the population, which may readily be estimated at 50,000 men, with their families and their property, we should not have the supplies to feed them, or be able to provide for their transportation the means which would be necessary to enable them to cross the zone which the French authorities caused to be abandoned and stripped of all its resources before the investment of the city. We find ourselves in the sad condition of entire inability to subordinate military operations to the sympathies with which the sufferings of the civil population of Paris inspire us. Our line of conduct is rigorously proscribed by the necessities of war, and by the duty of guarding our troops against new attacks by the enemy's army. After our conscientious observance of the convention of Geneva, which we have given proof of under the most difficult circumstances, it would be superfluous to give the assurance that the German artillery does not direct its fire intentionally upon buildings occupied by women, children, and sick persons. In consequence of the very nature of the fortifications of Paris, and of the distance at which our batteries are still placed, it is as difficult for us to prevent damage by accident to buildings which we would desire to spare as to prevent wounds from being inflicted upon the civil population, which are to be deplored in every siege. If these painful accidents, which we sincerely regret, occur in Paris on a larger scale than in other besieged fortresses, we must conclude that either it should not have been converted into a fortress, or that it should not have prolonged its defense beyond a certain period. In no case can it be permitted to any people, after having declared war against its neighbors, to preserve its principal fortress from surrender by invoking the kind consideration of the enemy for the inoffensive population, for the foreigners who dwell in the fortress, or for the hospitals which may be there, in the midst of which its troops seek shelter, and where, after each of their attacks, they are enabled to prepare others under the shelter of these hospitals.

I beg you, sir, to have the kindness to bring my reply to the knowledge of the signers of the letter of January 13th instant, and to receive the renewed assurance of my high consideration.

V. BISMARCK.

The minister of the Swiss Confederation at Paris to Count de Bismarck-Schoenhausen, chancellor of the North German Confederation at Versailles.

PARIS, January 23, 1871.

SIR: I had the honor to receive the reply addressed by your excellency, the 17th instant, to the note signed on the 13th of the same month by the members of the diplomatic corps at Paris, as well as by a certain number of members of the consular corps, in the absence of their respective embassies and legations. In accordance with the wish expressed by your excellency, I immediately communicated this reply to the signers of the note of January 13. I have been charged by their unanimous resolution to call your excellency's attention to certain errors contained in your reply.

Your excellency informs the signers that by a circular, bearing date October 4, you endeavored to show the consequences which must ensue to the civil population of Paris from a resistance prolonged to its extreme limit, and you add, "On the 29th of the same month this circular was communicated by me to the minister of the United States of America, whom I begged at the same time to communicate it to the members of the diplomatic corps." After having made the necessary examination, Mr. Washburne declares that no communication expressing a wish of the kind has been received by him, and that this statement is erroneous. In another passage of your reply, your excellency expresses yourself as follows: "I believe myself authorized, in accordance with what I have just stated, not to admit (as far as the German authorities are concerned) the assertion contained in the letter of January 13, that the countrymen of the signers were prevented from withdrawing themselves from danger by the difficulties opposed to their departure by the belligerents."

While acknowledging the readiness with which your excellency placed at the beginning of the siege "sauf conduits" at the disposal of persons belonging to neutral states, and not denying the fact that the French military authorities thought proper to

revoke at the commencement of November permission before granted, it nevertheless results from the declaration of several members of the diplomatic and consular corps, that in the course of the same month your excellency informed them that the German military authorities had "resolved to grant to no one permission to cross the lines of the besieging troops." The signers of the note were therefore correct in declaring that "difficulties had been put in the way of the departure of the *belligerents*."

Your excellency adds that, in accordance with private communications which you have received, the French authorities opposed the departure of the diplomatic representatives of neutral states. This fact not having been brought within the knowledge of any one of the chiefs of the diplomatic corps present at Paris, it may be assumed that these private communications were founded upon erroneous information. On submitting to a fresh examination the correspondence upon this subject, you will easily convince yourself, sir, of the accuracy of the corrections which I have had the honor to submit to you. As regards the *substance* of their request, it appears to the signers of the "note" of January 13 that the point of view in which the German military authorities have placed themselves is too widely different from their own, and that the refusal is conceived in too positive terms to permit that any further argument upon the principles and usages of the law of nations, should reach the desired conclusion. They cannot, however, omit to observe that your excellency principally endeavors to show, invoking the authority of Vattel, that the laws of war authorize, as a last extremity, the bombardment of a fortified city. The intention of the signers of the "note" of January 13 was not to contest this extreme right. They confine themselves to affirming, and they believe that they can maintain, in accord with the best authorities on modern international law, and with the precedents of the different periods, the rule that the bombardment of a fortified city should be preceded by notice.

There remains, therefore, only to the diplomatic and consular representatives of the neutral states, in consequence of the duties which are imposed upon them by the gravity of the situation, and of the importance of the interests at stake—the duty to communicate to their respective governments the correspondence exchanged with your excellency, while always insisting upon the substantial foundation of their request.

It may be permitted me, in conclusion, to express, in the name of the signers of the "note" of January 13, as well as in my own, my lively and sincere regret that the German military authorities could not resolve to reconcile the necessities of war with the wish to diminish the sufferings of the civil population of every nationality residing in Paris.

I take this occasion to beg you to receive, sir, &c.

The minister of the Swiss Confederation.

KERN.

No. 104.

Mr. Washburne to Mr. Fish.

No. 358.]

LEGATION OF THE UNITED STATES,
Paris, February 4, 1871. (Received February 23.)

SIR: In transmitting my correspondence with Count Bismarck in relation to the dispatch-bag to you, one letter from me to him was omitted, and I have the honor to inclose you herewith a copy thereof, to be placed with the correspondence.

I have, &c.,

E. B. WASHBURNE.

Mr. E. B. Washburne to Count de Bismarck.

LEGATION OF THE UNITED STATES,
Paris, January 2, 1871.

SIR: I beg leave to thank you for sending my dispatch-bag at an earlier period than heretofore. I am enabled thus to answer the dispatches of my Government to go out

by the courier to-morrow morning. I should be very glad if they could arrive in London by Friday, so as to go by the Saturday steamer. I duly received the London journals, and it is unnecessary to say that their contents have been most strictly guarded. I think there must have been some misapprehension in London in regard to my private letters. Mr. Moran, our chargé d'affaires, writes me that he was not permitted to send me any letters, except from my wife, who is now at Brussels. The consequence is that private letters to me from the United States minister at Brussels; from my son, who is in college in the United States; another son, who is at school in London, as well as a great many letters from my personal and political friends at home, have been detained, and are now at London. As the greater includes the less, I suppose that, after you had kindly conceded to me the journals containing military and political information, there would be no objection to my receiving my private correspondence having probably no reference to such matters, but if containing any information, it would be equally guarded with information I obtain from the journals. If such should be your understanding, I would be very glad if you would so telegraph to London, so my letters can come to me by the bag which leaves London next Friday. I should hope by the following Wednesday to receive them.

I have the honor, &c.,

E. B. WASHBURN.

No. 105.

Mr. Washburne to Mr. Fish.

[Extracts.]

No. 362.]

LEGATION OF THE UNITED STATES,
Paris, February 5, 1871. (Received February 23.)

SIR: During the past week the people of Paris have been patiently and quietly awaiting the *ravitaillement*, and agitating the question of the election of members to the national assembly which is to convene at Bordeaux on the 12th instant. Small quantities of provisions have commenced coming in to-day.

The first train contained supplies sent by the population of London to the population of Paris. These supplies have been distributed among the twenty arrondissements in proportion to their respective population, and are to be given out only to the most necessitous. It will be but a short time I hope before all can be reasonably supplied. The lower classes in the city have during the last months of the siege suffered untold miseries of cold and hunger, and with a patience and fortitude which does them great credit. Indeed the suffering of all classes has been very great, and it might be said that all classes have sustained the sufferings and privations of the siege in a manner that must excite the wonder and admiration of the world. * * *

Now that the siege is over I am thankful that I have remained through it all, for I believe that I have been of some service to the interests with which I have been charged. It is with pleasure that I am enabled to state that I have succeeded in protecting all American property in Paris, and that no harm has come to any of our Americans who have remained here. This statement must be qualified, however, so as not to apply to the young American, Mr. Swagar, who lost his life by having his foot torn to pieces by a Prussian shell, and to the two young men whose property was destroyed by the bursting of a shell in their apartment in the Latin quarter.

Several attempts were made to interfere with American property at different times, but I must do the government of the national defense the credit to say that they have treated all such matters as I have

deemed it necessary to bring to their attention with the utmost fairness and consideration. In the first place it was proposed to quarter the garde mobile in the American apartments, but upon an application to Gambetta, then minister of the interior, he gave an order that it should not be done. Afterward the city authorities proposed a special tax upon the apartments of the absent, which bore very heavily upon our countrymen. I had a correspondence with M. Jules Favre upon that subject, which I had the honor to transmit you and by which you will have seen that the city authorities were overruled and the tax not enforced. Then it was proposed to put the refugees from the neighboring villages, who had come into Paris, into the apartments of some of the Americans. I resisted that, and the intention was not carried out. And when the bombardment took place, and the people from that part of the city exposed to the shells were driven out, it was proposed to shelter them in the vacant apartments in the other parts of the city. Many of the apartments of the Americans were threatened in this way, but I gave orders that in no case would I consent to have the furnished apartments of Americans occupied in this manner, and I am happy to say that no apartment has thus been occupied. And lastly, after the armistice was declared, and all the troops came into the city, another attempt was made to quarter soldiers and officers also in the vacant apartments of Americans, but I protested against that, and no apartment has yet been occupied in that way. I hope, therefore, that when our country people return to their homes in Paris they will find everything in as good condition as when they left.

Very little damage has been done to the property of the people of other nationalities with whose protection I have been charged. At an early period the home of a German, Mr. Hedler, was invaded by the garde mobile in search of Prussian spies, and some damage was done to the furniture. Upon my representation of the matter to the government, Count de Kératry, who was then the prefect of police, took the affair promptly in hand, brought the offending parties to punishment, and permitted agents selected by me to assess the damages, which were promptly paid. Immediately after the breaking out of the war I took under my protection the magnificent hotel of the Prussian embassy in the Rue de Lille. All the persons who had charge of it, even down to the concierge, had been expelled from France, and as it seemed to be the objective point of the hostility of the Prussian population, I had great fears of its safety. I at once placed it under the charge of an American friend in Paris, who has exercised a most vigilant guardianship over it, and protected it from all harm. While there has been a good deal of hostility against me among a certain number of the population of Paris during the siege, and while I have been assailed in the clubs and in the newspapers on account of my protection of the Germans, I have no cause whatever for complaint against the government of the national defense, but have been treated by them with the greatest kindness and with all the consideration due to me as the diplomatic representative of our country.

I have, &c.,

E. B. WASHBURN.

No. 106.

Mr. Washburne to Mr. Fish.

No. 367.]

LEGATION OF THE UNITED STATES,
Paris, February 18, 1871. (Received March 9.)

SIR: I have the honor to send you herewith a copy of a translation of an official letter from M. Jules Favre, acknowledging the receipt of thirty-five thousand francs sent to him by me from the fund remitted from New York for the poor of France, and also a translation of a copy of an unofficial note of the same purport.

I have, &c.,

E. B. WASHBURN.

[Translation.]

M. Jules Favre to Mr. E. B. Washburne.

PARIS, February 10, 1871.

SIR: I have received, with the letter you did me the honor to write to me on the 8th of this month, a check for thirty-five thousand francs, representing the amount of the subscription opened at New York in favor of the French poor who have suffered from the present calamities. I hasten to thank you for the gift of these funds, and I shall be obliged to you if you will inform the citizens of New York who have united in this subscription of our profound gratitude for their generous assistance. I have agreed with the minister of finances that the distribution of the amount which you have sent me shall be made through a commission, of which Mr. J. Karrick Riggs is, according to your wish, to be a member.

Receive, &c.,

JULES FAVRE.

[Translation.]

M. Jules Favre to Mr. E. B. Washburne.

PARIS, February 10, 1871.

SIR: I am infinitely touched by the striking mark of sympathy which my country receives from your free America, and I beg you to convey the impression of my gratitude to your countrymen of New York who have been kind enough to take the initiative in this generous offering addressed to France so cruelly tried. I transmit to-day to my colleague M. Picard, minister of the finances, the check for thirty-five thousand francs you have had the kindness to send me, begging him to name, for the distribution of this amount, a commission, of which Mr. Joseph Karrick Riggs shall be a member—the gentleman whom you have named, and who will hasten to take your instructions.

I take this occasion to renew the assurances with which I have the honor to be,

JULES FAVRE.

No. 107.

Mr. Washburne to Mr. Fish.

No. 368.]

LEGATION OF THE UNITED STATES,
PARIS, February 21, 1871. (Received March 9.)

SIR: We have reached another stage in the progress of the extraordinary events which have convulsed France for the last seven months.

M. Thiers having been named by the National Assembly at Bordeaux chief of the executive power and president of the council of ministers of the French Republic, has selected his ministers. The new ministry is announced in the *Journal Officiel* of this morning. I advised you of the fact of the complete organization of this new government by telegraph this morning, and asked instructions. Four of the old ministers are in the new ministry. Much to my gratification M. Jules Favre retains the portfolio of foreign affairs, M. Ernest Picard has been transferred from the finance to the interior department, M. Jules Simon remains in the public instruction, and General Le Floa in the war. The minister of finance has not yet been designated; rumor has it that this portfolio will be confided to Buffet, one of the late ministers of finance under the empire. He has the reputation of being an honest and capable man; but, when he was minister, he distinguished himself by his opposition to any liberal postal treaty with our Government. Of the other ministers, De Larcy is the minister of public works, Lambrecht is the minister of commerce, and Vice-Admiral Pothnan is minister of the marine and the colonies. The antecedents of the last three gentlemen named I am not familiar with. All the gentlemen have accepted the portfolios which have been confided to them.

Messrs. Thiers, Favre, and Picard arrived yesterday from Bordeaux, and to-day M. Thiers has gone to Versailles to open negotiations for a peace. The national convention at Bordeaux, after having appointed fifteen commissioners to assist in the peace negotiations, took a recess until negotiations shall have been concluded.

I have the honor to send you the communication which M. Thiers made to the National Assembly at Bordeaux on Sunday last. I am sure your will read with profound interest that wonderful production of that venerable and patriotic man. He is now the leading figure in France. The nation leans upon him with hope and confidence.

My health has not permitted me to be out in the city for the last few days, but I understand that a most wonderful change has taken place; that Paris has become quite herself again. The tone of the press, however, shows there is intense anxiety in regard to the peace. The great problem must soon be solved, for it is evident, from the expression of the German official paper at Versailles, that the whole matter must be settled without much further delay. Of all these matters you will be fully advised by telegraph before you receive this dispatch.

I have, &c.,

E. B. WASHBURNE.

No. 108.

Mr. Fish to Mr. Washburne.

No. 239.]

DEPARTMENT OF STATE,

Washington, February 24, 1871.

SIR: Your Nos. 350, 353, and 358, severally dated 23d, 30th ultimo, and 4th instant, have been received.

Your letters to Count Bismarck on the subject of the dispatch-bag, and its conveyance to and from Paris, meets the entire approval of the Department. It is dignified, forcible, and just.

It was not unnatural that the powers besieging Paris during their

long and terrible efforts should have had their susceptibilities aroused at times, by the various rumors and statements (originated and put in circulation possibly for the very purpose of operating upon those susceptibilities) of information prejudicial to their military operations being conveyed into and from the beleaguered capital.

But it would be very much to be regretted, and would have been very unjust, had even a momentary suspicion found its lodgment in minds capable of achieving the results that have attended the civil and military operations of Germany toward the representative of a friendly state, and that representative being the one who at the request of Germany, and with the consent of his own Government, had charged himself with the arduous and critical duty of the care and protection of the German residents shut in with the millions of Frenchmen in the capital which Germany was endeavoring to reduce by siege, starvation, and bombardment.

The President observes, however, with satisfaction the very just disclaimer of any suspicion of the good faith of our conduct, in the letter of the chancellor of the North German Union to you, under date of 28th January last.

The question of the right of uninterrupted correspondence between a neutral power and its representative, duly accredited and resident in the capital of a belligerent, which, while he is thus resident, becomes the object of attack and siege by another belligerent, is now, happily, no longer one of immediate practical application.

It is satisfactory to notice that although Count Bismarck, in his note addressed to you on 6th December last, speaks of "obtaining for the legation of the United States the privilege of receiving closed dispatches," in his note of January 28th from Versailles he recognizes the principle asserted by me in a note addressed to Baron Gerolt on 21st November last, (of which a copy was sent to you with my No. 206 of 22d November,) and admits of no "doubt as to the right of your Government to correspond with you."

The delays and interruptions to that right are, I trust, wholly of the past, and may have been, and it is hoped were, the unavoidable accidents of the then pending military strife. In the absence of any recurrence we are content with the recognition so fully made by Count Bismarck of the right which we claimed.

I inclose herewith for your archives, and in connection with the correspondence on this subject, a copy of a dispatch from Mr. Bancroft of 21st January, with a translation of a letter to him from Count Bismarck of 15th January last, replying to my note of 21st November, (above referred to,) addressed to Baron Gerolt, and of my reply to Mr. Bancroft of this date.

I am, &c.,

HAMILTON FISH.

Inclosures.

Mr. Bancroft to Mr. Fish, No. 183, January 21, 1871. Mr. Fish to Mr. Bancroft, No. 296, February 24, 1871, post. (See pages 372, 377.)

No. 109.

Mr. Washburne to Mr. Fish.

No. 373.]

LEGATION OF THE UNITED STATES,
Paris, February 28, 1871. (Received March 20.)

SIR : The treaty of peace between France and the new German Empire to be ratified hereafter by the National Assembly at Bordeaux, was signed at Versailles on Sunday afternoon last. It has not yet been published, but the principal conditions are well understood. The news of the signing of the treaty was received in Paris on Sunday evening, and it created, as you may well understand, a very profound impression. The condition that a portion of Paris is to be occupied by thirty thousand German troops until the ratification of the treaty has produced an intense feeling, but I am in hopes the city will pass through this trying ordeal without any scenes of violence. It was generally supposed that the greater part of the German army about Paris would make a triumphant entry into the city, marching through its principal avenues, but without quartering in any part of it. The change in the proposed programme, by having a smaller number of the troops enter and remain here until the peace is ratified at Bordeaux, would seem to indicate that this partial occupation of the city was intended as a pressure on the National Assembly to hasten its action. The government has made a strong appeal, counseling forbearance and moderation, and the press has, with great unanimity, seconded such appeal. Indeed, by a slip which I cut from one of the journals and inclose to you herewith, you will see that the publication of all the newspapers of Paris is to be suspended during the Prussian occupation. Our legation is situated in that part of the city which is to be occupied by the German troops, and it is in this part that the greatest number of American residents have their apartments. There has been a great deal of alarm felt by our countrymen lest the German troops might be quartered upon them, but I yesterday wrote Count Bismarck on the subject, and called his attention to the correspondence between Mr. Bancroft and Mr. Thiele in regard to the protection of American property in the event of the entry of German troops into Paris, to the end that such orders might be given by their military authorities as would secure protection to all American property in the city. I will say there can be no reasonable doubt of the ratification of the treaty by the assembly at Bordeaux. You undoubtedly will have the full text of it by telegraph long before this dispatch will reach you, and you will be able to form a judgment upon it, and determine in your own mind whether the peace now to be secured will be a lasting one. It is impossible to tell what will be the influence of time upon the French people, but I think it is safe to say that to-day there exists all over France such a feeling of hatred toward the Prussians as is almost without a parallel in the history of nations. The article which I send you herewith from the *Siecle*, one of the oldest and ablest of the French journals, will give you a pretty good idea of the prevailing sentiment in France upon this subject.

The principal negotiators of the treaty on the French side were Messrs. Thiers and Favre. A more cruel task was probably never before imposed on patriotic men, and it was only during the final hours of the armistice that the treaty was signed. I am advised by the most reliable authority that the great "hitch" was in regard to the cession of the Fortress of Belfort. That was persistently demanded by the Germans and equally persistently refused by the French negotiators, and at last

M. Thiers declared absolutely that he would sign no treaty which ceded Belfort, though the Germans were willing to agree that they would not important fortress by France will do much to reconcile the Parisians to enter Paris if they could have Belfort. I think the retention of this the entry of the Germans into their city. Some of the American residents of Paris have already returned here, and as soon as peace shall have been definitely made, and the railroad trains shall be running regularly for passengers and baggage, I shall expect to see them all back. There has been considerable alarm expressed as to the future health of the city, but I believe it is without any reasonable foundation. The number of deaths per week is decreasing. Provisions are now plenty and cheaper than before the siege. The great want here now is the means of locomotion, the greater number of the horses having been killed for food during the siege, but as soon as peace is made that want will be supplied. Paris has already become again quite Parisian, and during the last few pleasant days the streets have been filled by the same bright-hearted population, presenting that cheerful aspect which so peculiarly belongs to this historic city. But when you go outside the walls the destruction and devastation of war can hardly be described. The most fearful and complete change is at St. Cloud; that beautiful village, with its magnificent palace, rich in the associations of centuries, is literally one mass of ruins. Bois de Boulogne, stripped of its trees, is a sad sight, recalling to mind the fate which befell it under somewhat similar circumstances in 1815. The interior of Paris is not much changed. A great many large and beautiful trees, on many of the avenues, have been cut down, but the smaller trees are left standing, so the alteration is not so great as to be much remarked.

I have &c.,

E. B. WASHBURNE.

No. 110.

Mr. Washburne to Mr. Fish.

No. 376.]

LEGATION OF THE UNITED STATES,
Paris, March 1, 1871. (Received March 20.)

SIR: They have come in. At 9 o'clock this a. m. three blue hussars entered the Port Maillot, proceeded up the avenue of the Grand Army, and walked their horses slowly down the magnificent avenue of the Champs Elysées, with carbines cocked and fingers upon the trigger. These hussars looked carefully into the side streets and proceeded slowly down the avenue. But few people were out at that early hour in the morning. Soon after, six more made their appearance by the same route, and every few minutes thereafter the number increased. Then came in the main body of the advance guard, numbering about one thousand men, consisting of cavalry and infantry, Bavarian and Prussian, forming part of the eleventh corps, under the command of General Kamichi. By this time the crowd on the Champs Elysées had increased and met the advancing Germans with hisses and insult. A portion of the German troops then halted and with great deliberation loaded their pieces, whereat the crowd, composed of boys and "roughs," incontinently took to their heels. According to a previous understanding among the French, all the shops and restaurants along the route had been closed, but notwithstanding their vigorous asseverations, that no consideration whatever

would induce them to look upon or speak to the "Prussians," I found, on going to the Champs Elysées at half-past nine o'clock, a large number of them attracted thither by a curiosity which they were unable to resist. In walking down the avenue to the point where the main body of the force had halted, in front of the Palace of Industry, notwithstanding the vehement protestations that had been made that no Frenchman would look at or speak to a German soldier, I counted a body of twenty-five French people, men, women, and children, in the most cordial fraternization with the German soldiers. Stopping for a moment to listen to the agreeable conversation which appeared to be carried on, a German soldier advanced to salute me, and addressed me by name; he turned out to be the clerk at a hotel at Hamburg les Bains, where I had lodged during my visit to that place in 1867 and 1869. From what I learn this evening the great body of the troops were reviewed by the Emperor of the new German Empire at Long Champs, before their entry into Paris. Instead, therefore, of the great mass of the troops entering at ten o'clock, as had been previously announced, it was not until about half past one o'clock in the afternoon that the royal guard of Prussia, in four solid bodies, surrounded the Arc of Triumph. Then a company of Uhlans, with their spears stuck in their saddles and ornamented by the little flags of blue and white, headed the advancing column. They were followed by the Saxons, with their light blue coats, who were succeeded by the Bavarian riflemen, with their heavy uniform and martial tread. Afterward followed more of the Uhlans, and occasionally a squad of the Bismarck cuirassiers, with their white jackets, square hats and waving plumes, recalling to mind, perhaps, among the more intelligent French observers, the celebrated cuirassiers of Nansousty and Le Tour Maubourg, in the wars of the First Napoleon. Now come the artillery, with its pieces of six, which must have extorted the admiration of all military men by its splendid appearance and wonderful precision of movement. Next fell into line the royal guard of Prussia, with their shining casques and glittering bayonets, which had been massed around the world-renowned Arc of Triumph, erected (and with what bitter sarcasm it may now be said!) to the glory of the grand army. I witnessed this entry from the balcony of the apartment of Mr. Cowdin, at the head of the Champs Elysées. A good many French people were on the sidewalks, on either side of the avenue. At first the troops were met with hisses, cat-calls, and all sorts of insulting cries, but as they poured in thicker and faster, and forming by companies, as they swept down the avenue to the strains of martial music, the crowd seemed to be awed into silence, and no other sound was heard but the tramp of the soldiery and the occasional word of command. The only disturbance I saw was occasioned by some individual advancing from the sidewalk and giving his hand to a German cavalryman, whereat the crowd "went for" him; but his backing seemed so powerful that the discontents soon dispersed without inflicting any injury. The entry of the main body of the troops occupied about two hours, and, after that, they began to disperse into the various quarters of the city to which they had been assigned, in search of their lodgings. We were busily engaged at the legation almost the entire day, endeavoring to secure protection for American apartments and property, and which will be made the subject of another and further communication. At 5 o'clock I went to see Mr. Jules Favre, in relation to the sudden and indiscriminate billeting of the German soldiers upon the American residents, and learned from him of the probabilities of the ratification of the treaty of peace by the assembly at Bordeaux this evening, and of his hopes that everything

would be settled before to-morrow morning, and that the German troops would be withdrawn from the city to-morrow. He seemed to think there was no doubt of the ratification of the treaty. He had been in hopes that it would have been ratified last night, and thus have prevented the entry of the Germans into Paris at all. But Mr. Thiers had been unfortunately delayed in reaching Bordeaux, which necessitated the postponement of action until to-day. Mr. Favre said he would send me notice of the ratification of the treaty the moment he received it, in order that I might telegraph you of the result. Starting to return to my residence on the other side of the Seine, I found the bridge guarded by French soldiers, who resolutely refused to let me pass. Soon a large crowd of "roughs" appeared and attempted to force the guard, and for a time it looked as if a sharp little battle was to be improvised. After standing around for about an hour, I was enabled, by the courtesy of a French officer, to slip through the guard and finally to reach my residence. My coachman was so thoroughly penetrated with fear of the "Prussians," that he utterly refused to harness his horses during the day, and, as I have been obliged to be upon my feet most of the time since morning, you can well imagine my fatigue as I sit down to write this dispatch in the evening.

As I now write it is eleven o'clock at night. The day opened cloudy and somber, with a raw and chilly atmosphere. A little after noon the sun came out bright and warm, and the close of the day was magnificent. Colonel Hoffman and Mr. Harris, who have been through the city this evening, have come in to report as to the situation. From the Boulevard du Temple to the Arc of Triumph not a store or a restaurant is open, with the exception of two of the latter on the Champs Elysées, which the Germans have ordered to be kept open. There are no excited crowds on the boulevards, and, what is very remarkable and without precedent in the memory of the "oldest inhabitant," not an omnibus is running in the whole city and every omnibus office is closed. Neither is there a private or a public carriage to be seen, unless a hearse shall be deemed and taken as a "public carriage;" unfortunately, too many of which are to be seen now every hour of the day. Paris seems literally to have died out. There is neither song nor shout in all her streets. The whole population is marching around as if under a cloud of oppression. The gas is not yet lighted, and the streets present a sinister and somber aspect. All the butchers' and bakers' shops in that part of the city occupied by the Germans are closed, and if the people had not provided themselves for the emergency, there would have been much suffering. The Bourse has been closed by the order of the syndics of change. No newspaper has appeared to-day, except the Journal Officiel. No placards have been posted upon the walls of Paris, and, up to this moment, I can hear of no act of violence of any significance. I have, this evening, sent you a telegraphic dispatch stating that the entry of the German troops has been quiet and peaceful, and that all is calm in Paris. I do not know that it will reach you. The headquarters of General Kamichi, in command of the troops of the occupation, is in the splendid hotel of Christina, ex-Queen of Spain. It is but just to say that the people of Paris have borne themselves to-day with a degree of dignity and forbearance which does them infinite credit. I propose dispatching a special messenger to London to-morrow to take this and other dispatches, so that they may go by the steamer which leaves Liverpool on Saturday next at noon.

I have, &c.,

E. B. WASHBURN.

No. 111.

Mr. Washburne to Mr. Fish.

No. 379.]

LEGATION OF THE UNITED STATES,
Paris, March 2, 1871. (Received March 20.)

SIR: My messenger to London, who was to have left this morning, was unable to get off and only leaves this evening. I have but little to add to my dispatch of yesterday, No. 376. At an early hour this morning I received a note from Mr. Jules Favre, advising me of the ratification of the treaty at Bordeaux, and saying that he should go to Versailles this morning and demand from Mr. Bismarck its immediate execution. I at once sent you a telegram to that effect, a copy of which you will find in a separate dispatch. I had understood from Mr. Favre that one of the provisions of the treaty was that the German troops should leave Paris immediately on the ratification of the treaty by the National Assembly. I had supposed, therefore, that such troops would have left Paris in the course of this afternoon. Such, however, is not the case, for at this hour (6 o'clock p. m.) there seems to be a larger number of German troops in the city than there was at any time yesterday. Everything, however, is perfectly quiet. The Champs Elysées, from the Arc of Triumph to the Place de la Concorde, has to-day been crowded with German soldiers, and this afternoon I saw great numbers of French people on the avenue mingling with them. The shops and restaurants in many parts of the city remain closed, but in other parts, more remote from the portion occupied by the Germans, everything is going on as usual. In driving out through the Boulevard du Temple to the Bastille, and returning by the Rue St. Antoine and the Rue de Rivoli, as far as the Hotel de Ville, I found the stores all open, the omnibuses and carriages in the street as usual, and the streets filled with people. No one could have supposed that the hated enemy of France held military occupation of the city. The day has been remarkably pleasant. In all parts of the city where I have been, in which circulation has not been interdicted by the military authorities, the streets have been crowded with people, but yet there was no unusual excitement anywhere.

Lieutenant General Sheridan, accompanied by a member of his staff, General Forsyth, arrived here this afternoon from Bordeaux, which city he left at 6 o'clock last evening. I understand from him that he proposes to remain in the city for some time.

I have, &c.,

E. B. WASHBURNE.

No. 112.

Mr. Washburne to Mr. Fish.

No. 384.]

LEGATION OF THE UNITED STATES,
Paris, March 8, 1871. (Received March 24.)

SIR: They have gone out. *Consummatum est.* In my No. 379 I spoke of the ratification of the treaty by the National Assembly at Bordeaux, my notification of the fact by Mr. Jules Favre, and the apparent delay of the German troops in leaving Paris.

These troops, that is, the thirty thousand of them, the number stipulated in the treaty, came in, as I wrote you, on Wednesday, the 1st

20 F R

day of this month. The third article of the treaty provided that, immediately after the ratification of the treaty by the National Assembly, sitting at Bordeaux, the German troops should immediately quit the interior of Paris. The ratification of the treaty was had on Wednesday evening, and the fact was telegraphed immediately to Mr. Jules Favre. At 6 o'clock on the next morning he left for Versailles to demand, in conformity to its provisions, the immediate evacuation of the interior of Paris. The German headquarters, however, refused to receive the telegraphic intelligence as conclusive evidence of the fact of ratification, and insisted upon a regularly certified copy of the proceedings of the National Assembly. It was not until 11 o'clock on Thursday morning that the special messenger arrived from Bordeaux with a regularly certified copy of the proceedings of the assembly ratifying the treaty, and at half past 12 Mr. Jules Favre, then armed with the official documents, again proceeded to Versailles to claim the exchange of ratifications. But it was not until 9 o'clock on that evening (Thursday) that the details for the evacuation were regulated by the French and German military authorities. It was agreed that the evacuation should commence the next (Friday) morning at 8 o'clock, and terminate at 11. The German troops commenced moving out at the appointed time, marching up the Champs Elysées and passing under the Arch of Triumph, with great cheering. At 11 o'clock precisely, the last German soldier passed through the gate of the Porte Maillot, and Paris breathed free. During the occupation there was a good deal of excitement in that portion of the city occupied by the German troops, but there was no serious disturbance anywhere. Indeed, everything passed off much better than could have been anticipated. No sooner were the troops fairly on their way out of the city than the closed stores, cafés, restaurants, and hotels threw open their doors, the avenue Champs Elysée was swept and sprinkled, and the magnificent fountains in the Place de la Concorde began to play. At 3 o'clock in the afternoon (the day was splendid) all the invested part of the city, which had for two days been under the guise of a funeral pall, presented a most gay and cheerful aspect, and the people looked far happier than I had seen them for many long months.

I have, &c.,

E. B. WASHBURNE.

No. 113.

Mr. Washburne to Mr. Fish.

No. 389.]

LEGATION OF THE UNITED STATES,
Paris, March 15, 1871. (Received March 31.)

SIR: In my dispatch numbered 376, I had the honor to state that my efforts to secure protection for American apartments and property, during the occupation of Paris, would be made the subject of a further communication. You will recall to mind that, on the 29th of August last, looking to possibilities, I telegraphed and wrote to you, suggesting whether you would not ask the German government to protect American property in Paris, in the event its army reached here. In your dispatch numbered 158, dated August 30, 1870, you state that "instructions will be forwarded by this day's post to Mr. Bancroft, to ask that in the event of the occupation of Paris by the German force, American property may

be respected." In your dispatch numbered 190, dated October 18, 1870, you state that Mr. Bancroft was "instructed to ask that proper measures be taken by the government of North Germany for the protection of American property in Paris, in the event of the occupation of that city by the German forces." In reply Mr. Bancroft states, in his dispatch No. 143, dated September 29, 1870, that he had addressed to the secretary of foreign affairs a request that measures might be taken for the protection of the large amount of American property in Paris, upon its occupation by the German troops, and concludes as follows: "I append a translation of the reply of Mr. Von Thile conveying the desired assurances."

Notwithstanding the somewhat non-committal character of Mr. Von Thile's letter to Mr. Bancroft, Mr. Bancroft understood it, as I presume you did, and as I certainly did, that American property in Paris would be respected by the German troops in the event of their occupation of the city. As soon as it was officially announced that a certain number of German soldiers were to enter Paris, and as they were to occupy that portion of the city where the greatest number of Americans resided, I lost no time in addressing Count de Bismarck on the subject. A copy of my letter to him I send you herewith. In view of Mr. Von Thile's letter, and of the fact that French soldiers had not been billeted on Americans, I felt entirely confident that the German soldiers would not be quartered in American apartments. Although I sent my letter to Count Bismarck by a special messenger on the day on which it was written, I received no answer from him until eight o'clock on the evening of the 3d of March, nine hours after the last German soldier had left the city. A copy of that answer I inclose herewith for your information. On the day of the entry of the Germans into Paris the legation was filled by people who had charge of American apartments, and who had come to claim my protection for them, stating that the German soldiers had been billeted on them by direction of the mayor of Paris. I must confess I was somewhat surprised that the mayor of Paris had given such an order, as none had ever been enforced billeting French soldiers upon Americans.

It now appears that the mayor, or his subordinates, had undertaken to quarter as many German soldiers as possible on foreigners, particularly Americans, and spare their own people. I immediately made an appeal to German officers, in view of what I considered the meaning of Mr. Von Thile's letter to Mr. Bancroft, that American property should be respected, not to quarter their soldiers in the apartments of my countrymen. As they had no order on the subject they did not consider themselves bound to conform to the suggestion of Mr. Von Thile's letter, but in many instances, upon a statement of the case, they did not insist upon going into American apartments, but found lodgings elsewhere. In other instances they went in under threats of using force unless the apartments were opened to them, although the American flag was in all cases displayed, and the persons in charge had papers from me certifying that the property belonged to Americans, and was entitled to be respected as such. Occupying the apartments for so short a time, and upon full explanation of the ownership of the property, and upon an earnest request that it should not be damaged, I am happy to say that scarcely any injury has been inflicted upon a single apartment. I made it a matter of complaint to Mr. Jules Favre that the mayor of Paris had billeted so many of the German soldiers in the American apartments while so large a number of the French apartments had been spared. He expressed great regret at such being the case, and said the condition of

things had come upon them so suddenly that everything had been done in great confusion, and that if any damage whatever happened to American property by the German troops, all such damage should be scrupulously paid for. But no claim for damages has yet been put in, and you can well imagine my relief in finding, at the end of the war, and after all the danger and tribulations through which we have passed in Paris, that out of American property estimated from seven to ten millions of dollars, the damages by the casualties resulting from the state of war does not amount to \$500, excepting always the horses which were taken by requisition for food, at a stated price per pound, and not according to values. I have, in this dispatch, gone over the matter somewhat at length. While fortunately, as I have stated, no particular damage was done to American property by the German troops during their stay in Paris, you will be able to judge how far the Count de Bismarck was disposed to carry out what you must have understood to be the views expressed by Mr. Von Thile to Mr. Bancroft. The occupation of the American apartments by the German troops was but for two days, and not followed by any material damage, but, had such occupation been, as it might have been, for six months, excluding the proprietors from their apartments, and attended by the destruction of furniture belonging thereto, I take it a grave question must have arisen as to reclamation for damages sustained by the subjects of a friendly neutral power. Count de Bismarck having observed in his letter to me that the military authorities, obliged to provide quarters, could not be expected to enter into researches about proprietorship of houses, or relations between landlord, tenant, and occupant, it is evident that he had overlooked that portion of my letter in which it was stated that the proprietors of nearly all the American property in Paris had been provided by me with protection papers, and authorized to display the American flag. Every American apartment, therefore, that was entered by German troops, was known to be American property by the German officers.

I have, &c.,

E. B. WASHBURNE.

Count de Bismarck to Mr. Washburne.

VERSAILLES, February 28, 1871.

SIR: I had the honor of receiving your letter of yesterday's date on the subject of the forthcoming entry of German troops into Paris. In answer I beg to say, in confirmation of the letter of Baron Thile, of September 28, that the German troops, as a rule, respect private property, and that any of the exigencies of war necessitating a deviation from that rule is not likely to arise during the intended partial occupation of Paris.

Respecting the billeting of soldiers, how desirous soever we are to exempt or alleviate citizens of friendly states, who have their domicile or residence in France, I cannot acknowledge a claim to such exemption as founded in international law, landed property and tenements of aliens not bearing any character of extritoriality.

I also beg to observe that the military authorities who have to provide quarters cannot be expected to enter into researches about proprietorship of houses, or relations between landlord, tenant, and occupant.

I have, &c.,

V. BISMARCK.

Mr. Washburne to Count de Bismarck.

PARIS, February 27, 1871.

SIR: In view of the official announcement that a certain number of the German troops are to enter Paris on Wednesday next, to remain for some time, and of the fact

that the part of the city in which they are to be quartered contains a very great number of apartments of American citizens, and a large amount of American property, I beg leave to call the attention of your excellency to the correspondence upon this subject between Mr. de Thile and Mr. Bancroft. I have the honor to inclose a copy of Mr. de Thile's letter in reply to Mr. Bancroft, who had applied on behalf of my Government to have American property in Paris respected in case of the entry of the German troops.

As fear has been expressed by some of my countrymen that German soldiers might be quartered in their apartments, I have thought proper to call your attention to this subject, to the end that such action may be taken by the North German military authorities as would carry out the purposes expressed by Mr. de Thile. The proprietors of nearly all the American property in Paris have been provided by me with protection papers and authorized to display the American flag.

I take this opportunity, &c.,

E. B. WASHBURNE.

No. 114.

Mr. Washburne to Mr. Fish.

No. 390.]

LEGATION OF THE UNITED STATES,
Paris, March 17, 1871. (Received March 31.)

SIR: Affairs in Paris for the past week have not been of very great interest. The National Assembly, as you will have seen, has removed its place of sitting from Bordeaux to Versailles, and the members of the government who were at Bordeaux have all returned to Paris. The question of the removal of the National Assembly from Bordeaux excited a good deal of feeling and an animated discussion in that body. Versailles, by a large majority, was carried, over the unanimous report of the committee in favor of Fontainebleau, by the powerful and personal influence of Mr. Thiers. The assembly meets at Versailles on Monday next, and though it sits in that place the seat of government will be at Paris. Mr. Thiers will occupy the splendid hotel of the minister of foreign affairs, where he will hold his official receptions. The council of ministers, however, is to hold its meetings at Versailles. The proceedings of the assembly will be vastly important, and will be watched with the greatest interest. Its great mission will be to legislate for the immediate exigencies of the country, but it is not supposed that it will attempt to act as a constituent to form a new government, without, at any rate, obtaining a power for such purpose from the people by a plebiscite. It is quite evident to my mind that the tendency of the country is to continue the republic, as the only form of government which can be sustained in France at the present time. But political events are so uncertain in France, that it is unsafe to venture predictions as to what may happen. Since the raising of the siege, some half a dozen very violent newspapers had been established, which were daily filled with the most revolutionary appeals, and teeming with incitations to bloodshed and civil war. A few days ago General Vinoy, military commandant of Paris, issued an order, not only suppressing the whole batch, but forbidding other papers of a like character to appear until the siege of Paris should be raised by direction of the national assembly. This order of General Vinoy has been unfavorably commented upon very generally by the press, but I think it has given very general satisfaction to a large majority of the people of Paris. But that which has created more talk and comment, and is, in my judgment, of far more serious import, has been the action of some regiments of the national guard, who seized upon large numbers of cannon and mitrailleuses, some two weeks since, and fortified themselves on the Butte Montmartre. These people have set up a sort of independent side-show in opposition

to the government. I do not regard any great degree of violence as probable, but it must be confessed that the condition of the lower and working classes of Paris is alarming. Each man fit to bear arms has been enlisted in the national guard, receiving for himself a franc and a half a day, and an additional sum for his wife, if married, and if he have children a certain sum for every child. But now, it having become necessary to disband the national guard and stop this pay, it is a question of the greatest gravity what is to befall these people. Every branch of industry is paralyzed; all building and improvement of the city has been stopped, and it is about impossible for the laborers to get work.

Nothing, as yet, has been disclosed as to the projects of the government for raising the money to pay off its indemnity to the Germans. There is an evident disposition in all circles to make a superhuman effort to satisfy this debt, and get the Germans out of France at the earliest possible moment. The procuring of such a vast amount of money will, I am afraid, interfere very much with the negotiations of our new five per cent. loan. To raise this money it is thought France will be obliged to offer its securities on better terms than our new loan can be had at. The French people have always had great faith in their own securities, and in their own national credit, and do not generally go abroad after investments unless they can purchase foreign securities on terms that will bring them higher rates than their own will yield.

I have, &c.,

E. B. WASHBURNE.

No. 115.

Mr. Washburne to Mr. Fish.

No. 394.]

LEGATION OF THE UNITED STATES,
Paris, March 19, 1871. (Received April 3.)

SIR: In my No. 390, of day before yesterday, I alluded to the insurrectionary movements in Paris, and expressing the opinion that they would not amount to much, and that no great degree of violence was probable. It was not then possible for me to conceive that in a little more than twenty-four hours from that time Mr. Thiers and all the members of his government would be obliged to flee from Paris, and that an insurrectionary committee of the national guard would, at the moment I am writing, be complete masters of the city. Yet such is the fact. The attempt of the government to dislodge the insurgents at Montmartre, and to get possession of the cannon there installed before daybreak yesterday morning, proved a complete failure, the troops of the line fraternizing with the national guard and refusing to fire upon them. All was lost from that moment, though the government did not appear to realize it, and various feeble demonstrations were made during the day to vindicate the public authority. All day long, whenever the troops of the line and the national guard came within reach of each other, they reversed their muskets in token of peace. Without knowing the full gravity of the situation, I started about noon yesterday to make a trip into the country. On my return at six o'clock in the evening, by the way of the Bastille, I found the circulation for carriages interdicted on the principal streets. Being turned into the by-streets, I soon found my way impeded by barricades which had been improvised, and everywhere the insurrectionary national guard. After making various turns,

however, I was enabled to get through the obstructed quarter. While I saw so many evidences of great public commotion, I had no idea how serious matters were until this morning, when, in coming down to my legation, I found the city full of the most fearful rumors. I at once went to the Foreign Office, and found that Mr. Jules Favre and the whole government had left for Versailles at half past nine o'clock last night. Leaving the Foreign Office and going to the boulevards, the intelligence of the shooting of Generals Clement, Thomas, and Lecompt, by the insurgent troops yesterday, was confirmed, and, as I am now dictating this dispatch, Count Sartiges has come into the legation to say that General Vinoy was also shot this morning. I am not sure but the same fate awaits Chauzy, for three men have just been here to claim my protection for a young American, who is his aid, and who was arrested with him yesterday, and both of whom are now held in close custody by the insurgent troops. The ministry of the interior and the ministry of justice, as well as the prefecture of police and the Hotel de Ville, are occupied by the insurgents. The central committee of the insurrectionary national guard has issued a proclamation, which is placarded on the walls this afternoon, stating that they have taken the power of the government, driven out the members thereof who betrayed it; that their mission so far is ended, and they call upon the people of Paris to elect a government to-morrow. The regular government of France, constituted by the will of the people, as expressed through the National Assembly at Bordeaux, having been driven from Paris, by the insurrectionary movement, and established itself at Versailles, I deem it my duty to follow that government, and shall, therefore, on to-morrow or the next day, remove thither with the legation, leaving one of the secretaries in charge here. Every member of the diplomatic corps will also leave. If the seat of government shall remain at Versailles, which is now very doubtful, my removal will be more nominal than real, for while I shall have my official residence at Versailles, I shall come into Paris every day.

I have, &c.,

E. B. WASHBURNE.

No. 116.

[By cable.]

MARCH 20, 1871.

FISH,

Secretary of State, Washington :

The following just received by messenger from Washburne for you :

“PARIS, *March nineteenth.*

“National guard committee master of Paris; departments of interior and justice, prefecture of police, Hotel de Ville occupied by insurgents; Generals Venoy, Thomas, and Lecompt murdered by troops; election for commune to-morrow. All members Thiers's government gone to Versailles; I follow with whole diplomatic corps.

“WASHBURNE.”

MORAN,
London.

Received at 2.20 p. m., March 21, 1871.

No. 117.

Mr. Fish to Mr. Washburne.

No. 249.]

DEPARTMENT OF STATE,
Washington, March 21, 1871.

SIR: Your Government has sympathized deeply with you in the trials and privations and annoyances to which you were subjected during the long-continued siege of the capital to which you were officially accredited, and where a high sense of duty, which is appreciated and commended, induced you to remain in the efficient and heroic discharge of the most difficult and delicate responsibilities that fall within the province of diplomatic service.

The President recognizes that your continuance within the besieged capital after the discretionary permission given you in my dispatch No. 226, of the 24th January last, has been from the promptings of your own conviction that the interests committed to you required the very great sacrifice of comfort; of the separation from your family; isolation from the intercourse of friends, personal discomforts, and risk of health and life. This sacrifice and these trials you have endured, and I desire officially to record the high appreciation and warm approval of your Government. You have done your duty faithfully and ably, and the President tenders you his thanks for the manner in which you have discharged the delicate duties devolving upon you, and have, on all occasions, maintained the dignity of your position and the rights of your Government.

An acknowledgment is also due to Mr. Hoffman, the secretary of your legation, for his faithful and able service during this long period of trial. You will please express to him the sense of the Department of his conduct.

Herewith you will receive a printed copy of an act of Congress approved March 3, 1871, by the 5th and 6th clauses of which appropriations are made to meet increased expenses incurred by the legation at Paris, (among others,) caused by a state of war, and for extra compensation to the secretaries and messengers of the legation, in conformity with the recommendations made in your dispatches on the subject.

I will thank you to prepare and forward to the Department a statement of expenses that may be fairly charged against these appropriations, to be presented in the form of a special account.

I am, &c.,

HAMILTON FISH.

 No. 118.
Mr. Washburne to Mr. Fish.

No. 395.]

LEGATION OF THE UNITED STATES,
Paris, March 23, 1871. (Received April 6.)

SIR: I addressed you a somewhat hurried dispatch, No. 394, on Sunday afternoon last, which was forwarded to Mr. Moran, at London, to be transmitted to you by open mail. The intelligence which I sent to you by telegraph of the shooting of General Vinoy was incorrect, though I had the most positive assurance that it was true. The next day (20th) Paris was very quiet, and no very great number of national guards were to be seen in the most frequented part of the city, many people hoping

that the worst was over, and that there would be a solution of the difficulties in some unforeseen manner. I went out to Versailles on that day to see what was the situation there. The National Assembly had met on that day, and nearly all the deputies were present. Very little was accomplished. I was unable to see Mr. Jules Favre, and I returned to Paris in the evening. There were large numbers of the troops of the line (estimated at forty thousand) in and about Versailles, but great doubts were expressed whether they would prove true to the government in the event of a collision with the insurrectionary national guard. On Monday evening some fifty Americans gave a public dinner in honor of Lieutenant General Sheridan at the Hotel Splendide, and everything in that central portion of the city was profoundly tranquil that night. On Tuesday there was a sort of dead, fearful calm in the city, and a feeling of great uneasiness. In the afternoon there was a considerable demonstration made by persons calling themselves friends of order, men of property and character, who went entirely unarmed. The effect of this demonstration was to inspire some confidence among the friends of order, and to exasperate the insurgents. It was determined to repeat the demonstration, and yesterday a shocking occurrence took place, which has created the intensest excitement in the city. An interesting account of the affair is given by Mr. Moore, the assistant secretary of legation, who was eye-witness, and which I send herewith. In his letter to me Mr. Moore does not allude to the killing of an American citizen. On the dead body of this man there was found a passport issued by Mr. Seward to George S. Hanna, but he had cards upon his person bearing the name of George H. Taniel, and I learn he is a young man from St. Louis, who had been in the service of the franc-tireurs during the war here. I ascertained that he had been at our legation in company with young Mr. Chouteau, of St. Louis, and I went to the banking-house of Bowles Bros. & Co., this afternoon, to look at the corpse, but I could not recognize it as of any person I had ever seen before. General Read took charge of the body, and placed it in the hands of the friends of the deceased in Paris. I again went to Versailles yesterday to make final arrangements for changing my official residence to that place. I procured an apartment for my legation, and shall take up my residence (nominally at least) to-morrow. The business of the legation here is now very large, keeping us all constantly engaged, and my own presence in the city at this critical period seems almost indispensable. I shall, therefore, come into Paris from Versailles about every day, in the interest of my countrymen and of the Germans, with whose protection I am still charged, and whose situation is becoming more and more precarious. This removal to Versailles will involve quite a large additional expense, in regard to which I would be glad to be advised.

I was down in the city at one o'clock this afternoon, and everything was very quiet. The friends of law and order have been greatly strengthened and the number of the national guards who are loyal to the interests of order is increasing very rapidly. Ten thousand of them are now guarding the Bank of France, and they hold to-day the mayorality of the second arrondissement.

In my 394, I spoke of an American who was an aid of General Chauzy, and who had been arrested on his arrival in Paris. I took immediate measures to ascertain where he was, in order to have him released. I sent Mr. McKean, my acting private secretary, in search of him on Sunday afternoon last, but he was unable to find out anything about him. The man, however, turned up at my legation this afternoon, while I was engaged in writing this dispatch. His name is J. Schenowsky, and he

was late brevet captain in the Fifth United States Cavalry. He resigned his position in the Army to come to fight for France, and here he became the chief of squadron attached to the cavalry division of the 21st army corps, and was placed upon the staff of General Chauzy. Chauzy himself arrived in the train from Orleans on Saturday night, and was arrested by the national guard and taken to prison. Captain Schenowsky arrived by the next train at three o'clock on Sunday morning, and on his arrival he and several others, Frenchmen, were arrested and taken off by the same guard. He was kept a close prisoner until one o'clock on Sunday afternoon, when, showing his commission, which bore upon its face that he had formerly been an officer in the United States Army, he was released. Feeling very anxious about his old commander Chauzy, who he esteems highly as a brave soldier, and whose misfortune he considers attributable solely to the character of his troops, on Monday last he attempted to visit him, and even after receiving an authority for that purpose he was arrested again by the national guard and taken to the prefecture, where he was kept in "durance vile" for some six or seven hours, and then again released. Another man, a Frenchman, who was long in our service during the rebellion, Mr. Ulric de Fruvielle, who, I believe, was in the engineer service of General Warren's corps in the Army of the Potomac, and who has been serving France since the war, was also arrested by the national guard, but I learn that he has escaped and that he has been condemned to death for "contumacy."

Mr. McKean has given me a very interesting account of his searches for Captain Schenowsky, which brings vividly to mind the scenes of the first revolution. He says that in company with two French gentlemen he went first to the prison where Chauzy had been incarcerated, in the avenue d'Italie. It was in one of the most wretched quarters of Montrouge. The streets of the neighborhood were all barricaded, furnished with cannon, and full of drunken and ferocious-looking men. Having entered the prison and stated the object of their visit, two captains of the troops stationed there got into a most violent dispute as to which of them were in authority. The one who had actual possession of the key was beastly drunk, but he finally surrendered it to the other, and they were admitted into the prison. They found there only one man, a Mr. Edmond Turquet, a member of the National Assembly from the department of the Aisne, a young and gallant-looking man, who had fought with brilliant courage under Chauzy, and received three several wounds. He was on his way to the meeting of the assembly at Versailles, and was arrested at the same time as General Chauzy. Captain Schenowsky had not been there, but Chauzy had, and had been removed to the prison de la Santé. Here they learned that on his way to this last prison Chauzy had been fallen upon by the mob, kicked, cuffed, and beaten with canes and sticks, and threatened with instant death. In making further searches for Captain Schenowsky, they went to the prefecture of police, between eight and nine o'clock at night. All the usual entrances were barred, and access to the building was obtained by a small side door, which led into the basement. There they were ushered into a little, dark, dismal room, for the purpose of obtaining permission to see the prefect. Here a most extraordinary spectacle was presented. The room was densely packed with soldiers of the most sinister look. A court-martial was being held. Three desperate and savage-looking men, in the uniform of officers of the national guard, were sitting at a small table in one corner of the room, which was lighted by a diminutive oil lamp that stood upon the table. Before this terrible tribunal was ar-

raigned a respectable-appearing young man in citizen dress. As they entered, the tribunal was upon the point of pronouncing judgment, but in the confusion it was impossible to hear what it was. From the vehement protestations of the young man and the intense agony in which he appeared to be, they had but little doubt that his sentence was death. He was immediately taken in charge by four soldiers and hustled out of the room, probably to be shot. Finding themselves in such a crowd, they did not dare to make any inquiries in reference to what the sentence really was. Mr. McKean went to the prefecture the next day in further search of Captain Schenowsky, and while there three respectable men were brought in charged with wearing a badge of blue ribbon. They were immediately sent down to this self-constituted revolutionary tribunal in the cellar, to undergo a mock trial, and very likely to be condemned and shot. It is only by visits like these that the world will ever get an inkling of the terrible atrocities which have been committed during this new reign of terror.

You will have seen by the telegraphic dispatches, and by the newspapers I send you, the proceedings of the National Assembly at Versailles. Never did a heavier weight rest upon the shoulders of any deliberative assembly than weighs upon the body at Versailles at this time, and it remains to be seen whether it can save France. The whole aspect now is such as to inspire every man in France with terror. The state of things in Paris to-day is without a parallel in its history. Since Saturday evening last there has been not even the shadow of a government in this city of two millions of people. There is nothing but a direction, whose behests are enforced by the power of the insurgent national guard. How far this thing will go, and how it is to end, it is useless for me to predict, for you will know by telegraph of results as they occur, long before this reaches you, and I fear that which I am writing will be old news and of little interest.

I have, &c.,

E. B. WASHBURN.

Mr. Frank Moore to Mr. Washburne.

LEGATION OF THE UNITED STATES,
Paris, March 22, 1871.

SIR: Following your instructions, I have the honor to submit a report of what I personally saw at the collision which took place this afternoon in the rue de la Paix, between a body of insurgent national guards and a large crowd of persons belonging to the law-and-order party of this city.

At half past one o'clock, as I turned the corner of the rue Neuve des Capucines entering the rue de la Paix, I saw a large body of men, composed about equally of persons in the uniform of the national guard and civilians, coming into the last-named street, at its junction with the Place de l'Opéra. The crowd appeared to be led by a few under-officers of the national guard and about twenty or thirty armed soldiers. Whether the latter belonged to the insurgents, and were being driven before the crowd, I was unable at the moment to determine, but it is now understood that they formed a part of the law-and-order party. The civilians and unarmed soldiers carried ordinary walking sticks in most instances. Fearing the consequences of remaining in the crowd, I entered a jeweler's shop, No. 10 rue de la Paix, from which I could see all that transpired in that thoroughfare between the rue Neuve des Capucines and rue Neuve des Petites Champs, but was unable to look into the Place Vendôme, where a considerable body of the insurgent national guard was posted. Across the rue de la Paix a line of the insurgents was drawn at the junction of the rue Neuve des Capucines, and two cannon were stationed immediately in their rear. As I entered the jeweler's store the crowd pressed by, making loud cries of "Arm, arm yourselves!" and "Vive la république!" the soldiers loading their guns and the others brandishing their canes high in the air, as they surged on toward the Place Vendôme. In a moment more the crowd seemed to come to a stand, when I went through a rear door of the store and entered the court-

yard of the premises. Finding the door of the main entrance to the rue de la Paix partly open I went to it, and discovered on the sidewalk General Chetlain, the American consul at Brussels, among the crowd. I beckoned him in, as another forward movement of the law-and-order party had then commenced, and returned to the jeweler's store. The crowd pressed on more furiously than before, filling the air with cries of "Vive la république!" "Vive l'ordre!" and "Arm, arm yourselves!" In about two minutes a single gun was fired, and in a moment more a general firing of small arms-commenced, which continued about ten minutes. The firing was very irregular, and did not appear to be by platoon. The cannon were not fired. Looking from the store in which I was, I saw seven men fall to the pavement, two of whom were killed instantly. A person in citizen's dress who attempted to succor a wounded man was shot down and killed. About two minutes after the general fusillade had ceased a single shot was fired immediately in front of my position. General Chetlain tells me that this shot was fired at a man already wounded, and who was crawling up on the sidewalk. As soon as quiet had somewhat returned I again went into the court-yard and ascended to the first story of the apartment, from which I could look up and down the rue de la Paix its entire length. In the window of the parlor of Lieutenant General Sheridan, at the Westminster Hotel, immediately opposite, I discovered General Merritt and Mr. Paul S. Forbes, who must, from their position, have been able to see all that was going on. Immediately after I saw General Chetlain safe and inside the court-yard into which I had called him at the moment of the second advance of the crowd, and he joined myself and a friend. We remained in the first story of the apartment about fifteen minutes, during which time we saw the dead bodies of two men lying on the opposite sidewalk. Both of these bodies were carried inside the insurgent lines at the Place Vendôme. General Chetlain informed me that a young man who was standing in the rue de la Paix, a few feet from him, was shot through the arm and had his wound dressed in the rear court-yard of the building in which we had taken refuge. Comparative order having been restored, General Chetlain, my friend, and myself left the house and soon gained the boulevards, from which place we experienced no difficulty in returning home. As we passed No. 12 rue de la Paix, we saw the body of a dead old man, whose head had been terribly mutilated by a shot, and who had evidently been shot down on the edge of the sidewalk, for the marks of his crawling to the place where he died gave sufficient proof of that fact.

I have, &c.,

FRANK MOORE,
Assistant Secretary of Legation.

No. 119.

Mr. Washburne to Mr. Fish.

No. 398.]

LEGATION OF THE UNITED STATES,
Versailles, March 27, 1871. (Received April 12.)

SIR: The election for the commune which took place in Paris yesterday was a perfect farce. It was ordered by the comité central without the shadow of authority, and the acquiescence in it at the eleventh hour by nearly all the mayors and some ten members of the National Assembly representing Paris, gave it no legality. Yet if the people had generally voted there would have been a certain moral force in the result. But that was not the case. There are some five hundred and fifty thousand voters in the city. On yesterday there were not more than one hundred and eighty thousand votes cast. It is estimated that sixty thousand of these votes were given by men not in sympathy with the commune movement, leaving, therefore, the central committee at the Hotel de Ville only backed by a little more than one-fifth of the whole number of votes. Notwithstanding all this, the insurgents will claim an advantage from the election, and assume that they have been indorsed by the people of Paris. The election will bring no change for the better, but, on the other hand, the situation will become more threatening. It is now the insurgents of Paris who are endeavoring to associate with themselves the insurgents in the other cities against the government of France. A dissolution of the present assembly is to be pro-

nounced and a decree of accusation against its members, when the "order of revenge is to strike without pity."

There seems to be little doing here. The assembly had to-day a very short session. Mr. Thiers made a speech, appealing to the members to be patient and to be silent. He denied in the most emphatic terms that the government intended to overthrow the republic. He said, "We have formed the republic and we will here serve the republic." Further, he said: "Our mission is to re-organize the country, to bring back peace, activity, labor, and prosperity, if it be possible, and then to leave to France entire liberty as to the choice of its destinies."

The government here evidently does not feel strong enough to cope with the Paris insurgents, and is waiting to get up other and more reliable troops.

Mr. Thiers told a gentleman to-day it would probably be *two weeks* before they would be ready. In the mean time you may well ask what is to become of Paris! Domiciliary visits have already commenced. The Père Duchêne, one of the worst of the Jacobin journals, and the favored organ of the government of the Hotel de Ville, demands the inauguration of the "policy of suspicion" and a "committee of public safety." The *red flag* has replaced the tri-color at the Hotel de Ville, the palace of justice, and the tribunal of commerce. Chauzy has been released, and is now here. He made his way on foot out from Paris. Henri de l'Espée, appointed prefect of the Loire on the 20th instant, has just been assassinated at the Hotel de Ville of St. Etienne. The spirit of insurrection and revolution is spreading over all France, and who knows that while the Versailles government is wasting its days in a "masterly inactivity," the insurrectionists, by their activity and audacity, will not gather power enough to completely defy it, if not overthrow it. I shall return to Paris to-morrow, and come out here again Thursday!

I have, &c.,

E. B. WASHBURN.

No. 120.

Mr. Washburne to Mr. Fish.

No. 399.]

LEGATION OF THE UNITED STATES,
Versailles, March 30, 1871. (Received April 14.)

SIR: I have the honor to inform the Department that, on the 17th instant, I notified Mr. Jules Favre that the citizens of Boston had sent a large quantity of provisions to France, for the benefit of those who had suffered by the war, and that the Government of the United States had placed a national vessel at the disposition of the donors to carry those provisions to Havre. To-day I am in receipt of a letter from Mr. Favre, a translation of which I have the honor to forward herewith, conveying the thanks of the French government to that of the United States and to the city of Boston. I beg that you will transmit a copy of Mr. Favre's letter to the committee of the donors in that city.

I am, &c.,

E. B. WASHBURN.

[Translation.],

Mr. Jules Favre to Mr. Washburne.

VERSAILLES, March 29, 1871.

SIR: You did me the honor to inform me, by your letter of the 17th of this month, that a subscription had been opened in Boston with the object of sending provisions to those French families which have suffered most during the war, and you add that the Government of the United States has placed at the disposition of the donors the United States frigate Worcester, which should already have sailed for Havre with the cargo.

I hasten, sir, to address to you the thanks of the French government for the kindness of the Cabinet of Washington, and I beg you to transmit to the city of Boston the expression of our gratitude for the generosity it has shown toward our people who have suffered from the war.

In conformity with the wish which you have expressed to me, the proper authorities at Havre have been requested to grant to the Worcester all desirable facilities for discharging her cargo, as well as immunity from all port and custom-house charges.

JULES FAVRE.

No. 121.

Mr. Washburne to Mr. Fish.

No. 403.]

LEGATION OF THE UNITED STATES,

Paris, March 30, 1871. (Received April 14.)

SIR: Events are marching apace. The election of members of the commune was proclaimed with great ceremony at the Hotel de Ville on Tuesday afternoon last. It was a great popular demonstration. All the national guards were invited to be present. At about four o'clock they commenced to arrive from every direction, drums beating and flags flying. Upon a platform in front of the hotel there was placed a large square table, which was surrounded by some members of the "comité central" in citizens' dress, and many officers of the national guard, all distinguished by a red scarf. The proceedings are opened by a display of flags, by repeated salvos of artillery, followed by great applause and cries of "Vive la commune!" "Vive la république!" &c. The Place de l'Hotel de Ville is densely packed with the national guard. At a given moment the soldiers place their caps upon the point of the bayonet and raise their muskets in the air. M. Ranvier, the president of the central committee, read to the multitude the list of members elected to the commune. Two other members of the committee then stepped forward and made brief speeches, which were received with loud cries of "Vive la commune!" The military bands placed at the foot of the balcony then struck up the *Marseillaise*, the *Chant du Départ*, and the *Gérondéus*, the entire assemblage joining in the chorus. The ceremony of the proclamation of the commune having been finished, all the battalions which had been massed upon the place of the hotel defiled before the balcony to the cry of "Vive la commune!" The scene was extraordinary. More than one hundred thousand persons were present at the ceremony. All the windows of the neighboring houses were well filled with spectators, the barricades were covered with people, and the *gamins* perched themselves in all the trees of the avenue Victoria.

The commune having thus been proclaimed, it met for the first time on Tuesday evening in the hall of the municipality of the Hotel de Ville. In contempt of all that has been insisted on by all liberal people, and by all journals of every shade of opinion, opposed to the régime of the empire, that the sittings of all representative bodies should be public,

or, at least, there should be a full publication of the journal of their proceedings, the meeting of the commune was in secret, and although there are rumors of great dissensions in the body, no one outside knows what actually took place. The *Nouvelle République*, which perhaps may be considered a semi-official organ of the commune, intimates: *First*. That the sittings of that body will not be public. *Second*. That there will not be a tribune. *Third*. That there will be no published report of its sittings, but only a daily publication of its decrees. To-day the government of the commune seems to be fairly installed. There is no longer any "Journal Officiel de la Française," but it appears to-day as the "Journal Officiel de la Commune de Paris." This journal makes the official announcement that the committee central has remitted its powers to the commune of Paris, and that organization issues an address to the inhabitants of the city. It claims, in the first instance, as I had supposed it would, that the vote of the 26th instant sanctioned the revolution of the 18th of March. It denounces the government at Versailles as criminal, and proclaims the work it is about to undertake. Already it has commenced issuing its decrees, the first of which abolishes the conscription, and declares that no military force other than the national guard shall be created or introduced into Paris; and further, that all able-bodied citizens shall be enrolled for service in that body. The second decree exempts tenants from the payment of rent for the last nine months, and, if perchance any rent has been paid during that period, it is to be applied as a credit on future payments. All leases are canceled at the will of the tenants for the period of six months from the date of the decree. Notices to quit are to be extended on demand of the tenant for a period of three months.

The journal of the commune this morning contains an announcement of the organization of the commissions of the commune, ten in number, and among them is one of foreign relations, of which the somewhat notorious Delescluze is the chairman. There is also the ominous commission of public safety, and then there are the commissions of justice, of military affairs, of finance, of subsistence, and what is termed the "commission executive." Independent of these commissions the Paris journal states that a central sub-committee, composed of twelve persons, has been formed at the Hotel de Ville. It also says that General Cluseret is a member of that committee, and that it will have jurisdiction of all accusations of treason against the republic. The article published in the Journal Officiel, the organ of the committee central, on Tuesday last, recommending all persons to murder the Duke d'Aumale and other princes, merely because they belong to families connected with royalty, did not seem to excite any great degree of horror, as people are beginning to look upon all these incitations to violence and to murder as matters incident to the present state of things here.

The commune may be said to be complete masters in Paris to-day, as there is no force to oppose them. The barricades are beginning slowly to disappear. The insurgents are getting possession of all the public places and public institutions. The general post-office of Paris has at last fallen, and a member of the commune has taken possession of the direction of that bureau. The result will probably be that the government at Versailles will not permit mails to come into Paris. I shall not intrust anything more of importance to the post-office here. I am sorry to say I cannot see any improvement in the situation. Matters must grow worse from day to day. A placard has already been put up in the quarter of Montmartre informing the public that certain commissioners have been named to receive the denunciations of citizens suspected to

be in complicity with the government at Versailles. This is probably the commencement of that system of denunciation which will soon fill the prisons of Paris. Mr. McKean was at the prefecture yesterday, and found an enormous crowd of well-dressed persons there, all of whom were looking for friends who had been arrested and spirited away.

Colonel Hoffman was at Versailles yesterday, and I shall go out there to-morrow.

I have, &c.,

E. B. WASHBURNE.

No. 122.

Mr. Washburne to Mr. Fish.

No. 407.]

LEGATION OF THE UNITED STATES,
Versailles, April 1, 1871. (Received April 17.)

SIR: I came out from Paris yesterday, and can see no change in the situation. The National Assembly is not concerning itself with anything which has relation with the state of things in Paris. Large numbers of troops are coming in, but the government seem to have no confidence in them, and is apparently awaiting the arrival of those who have been prisoners in Germany, upon whom they think they can rely. Some of the military men are anxious to take the offensive with the troops already in hand. I attended a reception of M. Thiers last night at the prefecture, which is now his official residence. It is a new and beautiful palace which was occupied by King William while he was at Versailles. I found quite a number of gentlemen there, and the conversation between them and the president of the executive powers in regard to the crisis was very earnest. I had but few words with M. Thiers, and found that he differed with me very materially as to the condition of matters in Paris, and he was far more hopeful of a favorable solution of affairs than I supposed any man could be with a full knowledge of passing events. Although the trains on the railroad by the right bank of the river, from Paris to Versailles, were stopped yesterday, and many of the gates of the city were closed, I found the one at the Point du Jour open as I came out in my carriage. I had no occasion to use the pass given me by the commune. This place is becoming more and more crowded, and people are flocking out from Paris in great numbers. I sleep on a cot in my legation, and consider myself wonderfully well off; but when it comes to the question of getting something to eat, *hic est opus hic labor est*. The scramble in the restaurants would put a western steamboat in the shade in emigration times. After a brisk skirmish of an hour I succeeded in obtaining a plate of soup, a slice of cold veal, and a piece of bread for my dinner. The worst of it is, one does not know how long this thing is to last; but I know of no other way than to take it as it comes, and to make the best of it.

I have, &c.,

E. B. WASHBURNE.

No. 123.

Mr. Washburne to Mr. Fish.

No. 408.]

LEGATION OF THE UNITED STATES,
Paris, April 2, 1871. (Received April 17.)

SIR: I came in from Versailles last night, entering the city by the gate of Point du Jour without any interruption. After leaving my home to come to the legation, at half past ten o'clock this morning, I had not proceeded far when I heard the discharge of cannon, mitrailleuses, and musketry. Soon the reports became more and more distinct, and it was quite evident that fighting was going on in the vicinity of the bridge of Neuilly, about one mile and a half from the legation. A gentleman who has just come in from that vicinity says that it was undoubtedly an engagement between some insurgent troops, who went out of the city last night in the direction of Versailles, and the government forces. He was a good way to the front, and several shells burst near him. Finding themselves opposed the insurgents beat a hasty retreat, and came into town pell-mell by the gate of Maillot, and, in order to be entirely safe, they drew up the bridge and closed the gate after them. As I am writing this, Antoine, whom I had sent out in search of information, has returned, and he reports the affair much more serious than I had supposed; but in such times of excitement great allowance should be made, and one hardly knows what to believe. He talked with many soldiers, who had run away from the fight, who told him that several thousand men had left the city last night to march upon Versailles. All acknowledged that they had been badly handled, some attributing their disaster to one cause and some to another. One said they were sent off without ammunition, and that they were therefore unable to return the fire. Others said that they were assured they would meet no opposition from the government troops, but on the contrary would be received with open arms. Instead thereof they were welcomed "with bloody hands to hospitable graves." One thing, however, is quite certain, the insurgents have met with a repulse, which may possibly lead to important results. On going to the Champs Elysées at half past twelve I found a regiment of the insurgent national guard had advanced up the avenue and halted near the Arc of Triumph. On the other side of the Arc there was an immense crowd of people and national guards, all looking in the direction where the firing had been going on up to within half an hour. While standing there some emotion was created by a few artillerymen dashing along with a piece of six, and although they were yelling and brandishing their swords they failed to obtain but a feeble acclamation as they passed from the crowd or from the regiment of soldiers. The most distinct recognition was from an enthusiastic little Frenchman at my side, who cried out, "Vive l'artillerie terrible!"

4 p. m.—I have just been into the avenue of the grand army and found there a dense crowd of excited people, together with some three or four thousand insurgent soldiers and thirty pieces of artillery. They were undoubtedly expecting another attack from the Versailles troops. Twenty prisoners, troops of the line, were marched through the avenue while I was there. Many of the people cried out, "Vive la ligne!" but the soldiers made no response nor evinced any disposition to fraternize.

In my 404 I spoke of the suppression of postal facilities in Paris. It may now be said to be complete except so far as the interior of the city is concerned. M. Rampont, the director of the post, succeeded on the night of the 30th in removing his department and everything belonging

to it, as well as all the employés, to Versailles. The government of the commune is very furious on the subject, as the interruption of postal facilities and all communication with the department is a great blow to Paris, and is creating much dissatisfaction. The commune is already at loggerheads and the greatest confusion reigns in its councils. Seventeen members have already resigned. I wrote you on Thursday last that the *Journal Officiel* of the Republic had taken the name of the "*Journal Officiel de la Commune*." The next day it resumed its former title, without giving any reason for the change either way. I propose to send this dispatch under cover to Mr. Moran, by the messenger of the British embassy to-morrow morning, that it may be forwarded to you by the open mail which leaves London on Tuesday next.

I have, &c.,

E. B. WASHBURNE.

No. 124.

Mr. Fish to Mr. Washburne.

[Extract.]

No. 256.]

DEPARTMENT OF STATE,

Washington, April 3, 1871.

SIR: Your No. 389, relating to the protection of American property in Paris during its occupation by the Germans, is received and has been read with interest.

In it you invite my attention to correspondence that had previously taken place between Mr. Von Thile and Mr. Bancroft under instructions from this Department, which were issued in consequence of suggestions made by you.

It also appears from your letter that notwithstanding the assurances given by Mr. Von Thile in this correspondence, German soldiers were actually billeted on Americans during the short occupation of Paris, and that a correspondence had taken place in consequence between Count Bismarck and yourself.

I gather further from your dispatch that the actual disposition of the soldiers was made under the directions of the mayor of Paris, who appears to have endeavored to relieve his own countrymen at the expense of citizens of the United States who have temporarily expatriated themselves, and transferred their property to French protection to the estimated amount of from seven to ten millions of dollars.

It would thus appear that the act of billeting the soldiers on Americans was committed rather by the French authorities than by the Germans; and that before an answer was received to your representations to Count Bismarck the Germans had left Paris. It would also seem that the damage which they committed was trifling, and that no American has made complaint. The Department fully approves of the zeal and discretion with which you have watched over the interests of your countrymen in this matter. It is a subject of congratulation that the facts do not call for any further active steps.

I am, &c.,

HAMILTON FISH.

Mr. Washburne to Mr. Fish.

No. 410.]

LEGATION OF THE UNITED STATES,
Paris, April 4, 1871. (Received April 17.)

SIR: It is impossible to arrive at the truth in regard to the fight which took place on Sunday last between the insurgents and the Versailles troops. It was a singular sight to my family on that Sunday morning to watch from the upper window of my residence the progress of a regular battle under the walls of Paris, and to hear the roar of artillery, the rattling of musketry, and the peculiar sound of the mitrailleuses. The result was undoubtedly very unfavorable to the insurgents, but it did not discourage them, for they commenced immediately rallying their forces for another attack. Late in the afternoon they began their movement, which continued till late into the night, going out of the city in different directions. At half past six o'clock yesterday morning I was awakened by the cannon at Mont Valérien, which had opened on the rear guard of a large column of insurgents that was on its way to Versailles. The firing caused the guard to retreat into the city in indescribable confusion. What has become of that part of the column which passed beyond Mont Valérien is not known, although some of the insurgents say that yesterday afternoon it was marching victoriously on to Versailles. Two other columns of troops are also said to have passed out, and there was quite a serious fight in the vicinity of Chatillon, resulting in the retreat of the insurgents pell-mell. The day of yesterday was one of great excitement in the city. The national guards were roaming around everywhere, singly, in squads, in companies, and in regiments. In the afternoon a body of several hundred women formed at the Place de la Concorde and took up their line of march to Versailles, in poor imitation of those who marched upon the same place in the time of Louis the Sixteenth. They paraded up the Champs Elysées and through the avenue Montaigne. A portion of them passed over the Pont d'Alma, while the others took the route to the Point du Jour. Many of them wore the "*bonnet rouge*," and all were singing the Marseillaise. Whenever they met an omnibus they stopped it, caused the passengers to get out and took possession themselves. One old woman, sixty years of age, mounted on the top of an omnibus, displayed the red flag, and gave the word of command. How far they went and what became of them I do not know. It is very curious to read the different accounts which are given of yesterday and Sunday in the various red journals. Their violence knows no bounds. The insurgent official journal publishes a decree of the commune impeaching Thiers, Favre, Picard, Simon, and Pathuan, and also seizing and sequestrating their property. Insurrectionary journals are springing up like gourds in the night, and each tries to surpass the other in revolutionary fervor and violence. If this thing continue it is not unlikely that all the papers opposed to the commune will have to go under. Indeed, the "*L'Action*," the journal of Lissagaray, of this morning, openly demands the suspension, "*sans phrase*," of all the journals in Paris hostile to the commune. The insurrectionists, who had for one of their watchwords "*a free press*," have suppressed by force the "*Figaro*" and the "*Gaulois*," destroyed the issues of the "*Constitutionnel*," driven out of the city the "*L'Électeur Libre*," the "*Bien Publique*," the "*Ami de France*," and one or two other journals. A very significant note addressed by the commune to the director of the

"Paris Journal," a paper of a very large circulation, appears this morning. I will give you the names of some of these new papers that have made their appearance since the insurrection of the 18th of March:

Le Rappel, L'Action, Le Père Duchêne, Le Vengeur, Le Mot d'Ordre, L'Affranchi, Le Cri du Peuple, La Révolution, La Montagne, L'Avant Garde, La Commune, La Sociale.

We have reports of great commotion in the councils of the commune. Assi, who was the head man in the comité central of the national guard, and elected a member of the commune, is now imprisoned at the prefecture of the police. Lullier, another member of the comité central, was arrested by his associates in the committee, and also cast into prison. He has since escaped, and publishes a letter in which he says the depot of the prefecture is transformed into a prison of state, where the most rigorous precautions are taken against all the prisoners. The official journal of the insurrectionists of yesterday makes the following announcement: "Citizen Cluseret is appointed delegate to the ministry of war, conjointly with the Citizen Endes. He will enter his duties immediately." As I write this dispatch at 3 o'clock this afternoon, to send to London to-night by General Starring, everything is quiet in the town as far as I can learn, yet a good deal of firing is heard in the direction of Mendon. Colonel Hoffman went to Versailles this morning. I need hardly add that the greatest uneasiness continues in the city among all classes of people. Matters cannot long remain in their present position. It is impossible for Paris to hold out against all France. The communal insurrection seems to have been suppressed in all the cities of France except Paris.

I have, &c.,

E. B. WASHBURNE.

No. 126.

Mr. Washburne to Mr. Fish.

No. 411.]

LEGATION OF THE UNITED STATES,

Paris, April 6, 1871. (Received April 20.)

SIR: I have not been to Versailles since Saturday. As I wrote you in my No. 410, Colonel Hoffman went thither on Tuesday last. I intended to have relieved him before this, but I am reluctant to leave Paris in these troublesome and somewhat perilous times. We still have here a large number of Americans, and while I hope that they may not be molested or have their property injured, yet no one knows what may happen from hour to hour. Under such circumstances I deem it my duty to remain in Paris as much as possible, going or sending to Versailles to transact official business with the government there.

In my last dispatch I gave you an account of the military operations up to the date thereof. There has been almost constant fighting ever since outside the walls of the city, and in the direction of Versailles. The results have been uniformly unfavorable to the insurgents, who have lost large numbers in killed and wounded, and a great many prisoners. It seems to be understood that all of their forces are to be brought into the city under the pretext of reorganization. The greatest discouragement exists among the insurrectionary population of the city, and the most desperate things are not only proposed but are be-

ing accomplished. The archbishop of Paris, the Monseigneur Darboy, was arrested the night before last and carried to prison, while his palace was plundered. One of the employés of the legation has just come from there and verifies the fact. The insurrectionary national guard is still holding possession of his palace. The Abbe Deguerny, the curé of the Madeline, was also arrested and sent to prison on Tuesday night; his effects were seized, and seals were put upon his papers. Four priests were also arrested during the same night and carried to Mazas. As you may well imagine, the greatest terror prevails among all these people who are now being hunted down. Their fate seems hard indeed. All of them remained here during the siege, suffering unheard of privations of cold and hunger, visiting the sick and wounded, and upholding the courage of the people of Paris. I am not certain as to what has become of the property of the members of the government, seized a few days since by order of the commune, but a gentleman informs me that the house of M. Thiers has certainly been robbed, and that he saw placed upon its walls "À vendre." I presume it is the same with the houses of all the other members of the government.

There is greater uneasiness in Paris this morning than I have ever witnessed. The most sinister rumors prevailed. The Journal Officiel of the insurrection publishes this morning a most savage decree of six articles. The first decrees that every person accused of complicity with the government of Versailles shall be imprisoned. The second article provides for the institution of a jury to try these parties. The third provides that the jury shall act within forty-eight hours. The fourth, that all those convicted will be held as hostages of the people of Paris. The fifth provides that the execution of any prisoner of war or partisan of the regular government of the commune of Paris, will be immediately followed by the execution of three of the hostages found guilty by the jury. The sixth provides that all prisoners of war shall be brought before the jury, which will decide whether to set them at liberty or to retain them as hostages. I send you herewith, as cut from the official journal of the insurgents, an address from the commune to the citizens of Paris, also one of its decrees, a report of General Cluseret, a note of Pascal Grousset, member de la commune, délégué aux relations extérieures, addressed to the representatives of the foreign powers; and further, a letter of General Bergeret to the executive commission of the commune. Rochefort's paper, the Mot d'Ordre, this morning, takes a very discouraging view of affairs. It says that the disasters which have befallen the insurgents are the results of the incredible folly which presides at all the military operations. He also attacks the commune with great bitterness for the secret deliberations in the silence of the night, and earnestly demands that the doings of that body shall immediately be made public.

In my last dispatch I said, if the state of things existing continued, it was not unlikely that all the papers opposed to the commune would go under. My prophecy has since become history, for every paper that has been pronounced in its opposition to the commune has been suppressed, and we now have nothing but the insurrectionary sheets which I mentioned the other day. There should have been added to that list two other journals, La Cloche and Le Châtiment. Many Americans have called at the legation to-day to procure passports, and to seek advice in relation to leaving the city. All the gates of the city are closed, and the railroads leaving the south side of the town are also closed. The Northern, the Orleans, and the Strasbourg roads are, however, open. Their depots are all held by the national guard, and Frenchmen,

excepting women and children, are not permitted to depart. Foreigners have no trouble in getting away on showing their passports. I send my dispatch-bag over to London to-night, one day in advance of its usual time.

I have, &c.,

E. B. WASHBURNE.

No. 127.

Mr. Washburne to Mr. Fish.

No. 415.]

LEGATION OF THE UNITED STATES,
Paris, April 8, 1871. (Received April 26.)

SIR: I have the honor to acknowledge the receipt of your dispatch No. 249, under date the 21st ultimo. I am very much gratified to know that my official duties have been discharged in a manner satisfactory to the President and yourself. For the very kind and cordial manner in which you have been pleased to express that satisfaction, I beg to tender to you my sincere acknowledgments. The testimonial of approval of the conduct of Colonel Hoffman is well merited; and he desires that I should express to the President, as well as to yourself, his most grateful and profound thanks. I duly received the printed copy of the act of Congress, making an appropriation to meet the increased expenses incurred by the legation at Paris, on account of a state of war between Germany and France. As these expenses still continue, and as I presume you will not desire two accounts to be made, I shall, unless otherwise instructed, defer sending a statement until after I am relieved of the protection of the subjects of North German Confederation, and can furnish you an account which shall embrace the expenses incurred of every kind and description.

I have, &c.,

E. B. WASHBURNE.

No. 128.

Mr. Washburne to Mr. Fish.

No. 416.]

LEGATION OF THE UNITED STATES,
Paris, April 9, 1871. (Received April 26.)

SIR: It is one week ago to-day since actual fighting commenced between the Versailles troops and the insurgents. The latter still hold the forts of Vanvres and Issy, but they have no men outside the walls, except those who are in these two forts. There has been but little cessation of the fighting during the week. The successes have been invariably on the side of the government troops, and the commune forces are now strictly on the defensive. On Friday afternoon last the government troops attacked the insurgents at Neuilly and carried the barricade on this side the Pont de Neuilly. From that point and Mont Valérien they have ever since been shelling a battery of the insurgents at Port Maillot, and a large number of shells have fallen in that part of the city in which the Arc de Triomphe is situated, and in which locality a great many of the apartments are occupied by Americans. One shell fell in the avenue Joséphine, half a square distant from the legation.

and several have burst in the rue de Chaillot, between the legation and the Champs Elysées. On going to my house at five o'clock on Friday afternoon last I found that three shells had exploded in the immediate vicinity, one of them striking within fifty feet of my parlor window. Considering it no longer a safe place for my family, I lost no time in removing my wife and children to a less-exposed situation. Coming to the legation this morning, I saw two shells burst at the Arc de Triomphe. I do not know how long this business is to continue, but the communists are evidently expecting an attack, for they have great numbers of soldiers in all the streets running out from the Champs Elysées. It is estimated that the losses of the insurgents in the last week amount to more than seven thousand. There continues to be a great deal of dissatisfaction evinced in regard to the direction of their military affairs. General Bergeret, who commanded the army of Paris, is under arrest. The commune has adopted a decree suppressing the grade of general, on the ground that such a grade is incompatible with the democratic organization of the national guard. Cluseret now seems to be the main man, and the Journal Officiel of the insurgents of to-day contains three orders signed by him.

Mr. Hoffman returned from Versailles on Friday evening last, where he had been for several days looking after such matters as required attention at the legation there. He found much difficulty in going and returning. I shall probably send him out again to-morrow instead of going myself, as in the present state of things I think it much more important for me to remain here than to be at Versailles.

I have, &c.,

E. B. WASHBURN.

No. 129.

Mr. Washburne to Mr. Fish.

No. 417.]

LEGATION OF THE UNITED STATES,
Versailles, April 13, 1871. (Received April 27.)

SIR: I regret to say that I can see nothing very encouraging in the present situation here. To be sure they are getting in a good many troops, and the *morale* of the Versailles army has greatly increased since the fighting began, but yet they do not seem to be ready to attack. Marshal MacMahon has taken command of the whole army. Large preparations are being made, and it certainly cannot be a long time before active operations will be commenced. It is my opinion that the insurgents are gaining strength every day. It is currently reported here to-day that the government troops were worsted yesterday at Neuilly. I fear it will be a long time and a bloody time before these terrible troubles in Paris are ended.

I have, &c.,

E. B. WASHBURN.

No. 130.

Mr. Washburne to Mr. Fish.

No. 418.]

LEGATION OF THE UNITED STATES,

Paris, April 14, 1871. (Received April 27.)

SIR: I came in from Versailles late last night after having been there three days. Mr. Hoffman relieved me, and will remain there until I shall go out again. Upon my return here my impression is strengthened that the power of the insurgents is all the while increasing. In my No. 416 I stated it too strongly when I said the insurgents had no men outside the city except those in the forts. They have a large force in the direction of Neuilly and Courbevoie, and, indeed, they claim to have retaken Neuilly from the Versailles troops. Fighting is going on all the time. The city has more and more the appearance of a great camp. New barricades are being built, and cannon are being placed in new positions. The Versailles troops continue the bombardment of our quarter of the city, and the day before yesterday a shell exploded directly over the legation, and, falling, struck the lower portion of the building within twenty feet of where I am now writing. The Americans who are here are becoming more and more alarmed, and the legation is thronged by them from morning to night seeking passports and protection papers for their property. I fear I shall have to send my family away again, as a great many of the French people now consider a siege not improbable, and already the prices of living have advanced very much. It will be four weeks to-morrow since the insurrection broke out, and things have been going from bad to worse all the time. It is estimated that three hundred thousand people have left Paris in the last fortnight. All persons are either concealing or carrying away their capital. The sources of labor are dried up. There is neither trade, commerce, traffic, nor manufacture of any sort. All the gold and silver that has been found in the churches, and all the plate belonging to the government found in the different ministries, has been seized by the commune, to be converted into coin. The Catholic clergy continue to be hunted down. The priests are openly placarded as thieves, and the churches denounced as "haunts, where they have morally assassinated the masses, in dragging France under the heels of the scoundrels Bonaparte, Favre, and Trochu."

A most remarkable decree is just published in the official organ of the commune. It is no less than an order to demolish the world-renowned column *Vendôme*, in the Place Vendôme. It is denounced as a monument of barbarism, and a symbol of brute force and false glory, a permanent insult cast by the victors on the vanquished, and a perpetual attack on one of the great principles of the French republic: *fraternity*. Hence, the decree to raze it to the ground. A gentleman just in says that the firing from Mont Valerien has completely demolished the insurgent barricades at the Port Maillot, and to-day Mont Valerien is bombarding the Port de Ternes. The Arc de Triomphe has been struck twenty-seven times. The splendid hotel of the Turkish embassy, in the Place d'Etoile, has been very badly damaged by shells from Mont Valerien. The apartment of Mr. Pell, of New York, at No. 12 rue de Presbourg, has also been badly damaged. The building in which Mr. Hoffman has his apartment in avenue d'Eylau has been struck four times.

I have, &c.,

E. B. WASHBURNE.

No. 131.

Mr. Washburne to Mr. Fish.

No. 420.]

LEGATION OF THE UNITED STATES,
Paris, April 18, 1871. (Received May 4.)

SIR: I have not been to Versailles since I came from there on Thursday last. Even if the state of my health had not prevented, I should have deemed it my duty to have remained here, as there is still a great deal to do in the way of protection to the persons and property of our countrymen as well as the Germans. The alarm among all classes of persons is daily increasing, and nearly every one is leaving, or preparing to leave, as soon as possible. There has been a great deal of difficulty within the last few days in regard to passports, the insurgent authorities having refused to recognize our passports unless issued or visé on the very day on which it is presented. The applications for passports and for certificates of the ownership of the property of Americans, and which we call "protection papers," have been very numerous in the last few days. The state of things existing here at this time produces strange results. By a decree of the commune, all Frenchmen between the ages of nineteen and forty are liable to do military duty, and hence no Frenchman is permitted to go out of the gates of Paris. There are a great many people who belong to Alsace and Lorraine between those ages, and within the last week no less than four hundred and fifty have applied to me for *laissez-passer* as citizens of the Empire of Germany. On exhibiting to me satisfactory evidence that before the war they were citizens of Alsace and that portion of Lorraine incorporated into the German Empire by the late treaty, I have not hesitated to give each one a special *laissez-passer*.

A case has been brought to my attention to-day of a Catholic priest, a native of Alsace, who has been arrested and cast into Mazas along with many of his order. I shall, to-morrow, make an officious application to the commune for his release as a German subject. Domiciliary visits, arrests, and perquisitions are becoming more and more numerous. All refractory national guards are seized and either cast into prison or put into the front rank in the attack. Two days ago a very respectable man living near the legation was torn from his family, sent to the front, and the next day slain in battle. The invasion of houses is no longer confined to those of official persons, or of persons particularly obnoxious on account of their relations to the empire. Many private residences have already been pillaged, and among them those of the Périere Brothers, and Charles Lafitte, the bankers. The house adjoining my own residence in the *avenue de l'Impératrice* was pillaged on Saturday night last, and even the personal effects of the *conciérge* were carried off. My own house was probably spared the same fate by my personal occupation of it. The invasion and violation of the Belgian legation on Sunday last, by a battalion of the national guards, is a fact of peculiar gravity. While the official organ of the commune denounces this act, and says that an investigation will be immediately ordered, and the accused parties sent before a council of war, the trouble is that the commune wields no sufficient authority to punish any outrage or suppress any violence.

There is no knowing what legation will be next invaded. The first indication for confiscation of private property on a magnificent scale appears in a decree of the commune this morning. It is a practical seizure of the work-shops of Paris, which are to be turned over to the

various co-operative working societies. The farce is to be gone through with of a jury of arbitration to fix upon the amount of indemnity to be paid to the owners of property. Of course, such owners are not represented on the jury, and have no voice whatever in the matter. The commune has adopted a measure fraught with very serious consequences to all property-holders in Paris, and of course involving the interests of all Americans who are unfortunate enough to hold property here at this time. It is the levying of a new tax to go into the coffers of the commune. When the time comes around, if it ever do come, for the collection of this tax, there will be but few if any Americans here to determine for themselves what they will do in the premises. I shall tell all that the tax is without the semblance of legal authority, and advise them not to pay it. What will be the result in all this business, if the insurrection shall not be speedily put down, it is impossible to tell. There is no improvement in the situation since the date of my last dispatch. I can as yet see nothing that leads me to believe that the insurrection is to be speedily put down. All the talk that has been made that some arrangement was to be arrived at between M. Thiers and the commune amounts to nothing. All the concessions which it was signified would be made to the insurgents have been spit upon. It is one month to-day since this insurrection broke out, and here we are daily going from bad to worse. Day after day passes and nothing is done. MacMahon accomplishes no more than Vinoy. Paris continues to be left at the mercy of the commune, and now a siege is threatened, which, considering the actual situation, can only be contemplated with horror. The military situation is not much changed. At Asnieres yesterday the insurgents were badly beaten, but with that exception the fighting for the last few days has amounted to but little, although there has been a great deal of powder and ball wasted. Direct communication with London by the Northern Railroad is still open, and I hope to be able to forward this dispatch to London to-night.

I have, &c.,

E. B. WASHBURNE.

No. 132.

Mr. Washburne to Mr. Fish.

[Extract.]

No. 422.]

LEGATION OF THE UNITED STATES,

Paris, April 20, 1871. (Received May 4.)

STR: In the way in which things go on in Paris, I am afraid that in writing about them so frequently I may be in danger of repeating myself. No one could have supposed when this insurrection broke out, on the 18th ultimo, that nearly five weeks would have rolled around without any prospect of its immediate suppression. I am certain that I never believed that it would fall to my lot to live, with my family, in a city of two millions of people in a state of insurrection for such a length of time as the present one has already lasted. I should be too happy if I could advise you that I could see any prospect of a termination of the terrible state of things existing here. Nothing comes to us from Versailles that can be relied on, to show that effective measures are soon to be taken to expel the insurgents from power and to re-establish the authority of the government in Paris. To be sure we hear rumors of attack and

assault in great and overpowering force, and then other rumors of a siege; but day after day passes away without particular results further than heating still hotter the blood and inflaming still further the existing hatreds and animosities. * * * * *

Men in the assembly and out of the assembly are becoming impatient, yet can effect nothing. There is a great deal of fighting going on, always in the same places—that is, in the direction of Asnières, Neuilly, and Courbevoie. The same shelling of the city continues, and beneficial results are always wanting to the attacking forces. So far as we may be able to judge, and this thing has continued for nearly three weeks, but little has been accomplished, for the government troops have not yet reached the walls of the city. An attack in force may, however, take place at any day, of which you may be advised before this dispatch shall reach you.

An election took place here on Sunday last to fill vacancies in the commune, and although great efforts had been made to induce people to vote, there was a very general and significant abstention. Cluseret was a candidate in one of the arrondissements, and, out of 21,360 votes inscribed, he obtained only 1,968 votes; and yet the commune, in contempt of a law that has always been respected, which declares that no candidate be elected without receiving one-eighth of all the votes inscribed, has declared his election good. The suppression of the journals still continues. The official journal of the commune of yesterday morning announced that the following papers were suppressed: *Le Bien Public*, *La Cloche*, *Le Soir*, *L'Avenir National*. Two of these papers, however, have appeared to-day, in spite of the order of suppression, *Le Bien Public* and *L'Avenir National*.

It seems useless for me to speak of the condition of Paris at the present moment. Fortune, business, public and private credit, industry, labor, financial enterprise, are all buried in one common grave. It is everywhere devastation, desolation, ruin. The physiognomy of the city becomes more and more sad. All the upper part of the Champs Elysées, and all of that portion of the city surrounding the Arc of Triumph, continues to be deserted, in fear of the shells. In coming from my residence to the legation it seems like a city of the dead; not a carriage, and hardly a human being, in the streets. Immense barricades are still going up at the Place de la Concorde. The great manufactories and work-shops are closed. Those vast stores, where are to be found the wonders and marvels of Parisian industry, are no longer open. The cafés now close at ten o'clock in the evening; the gas is extinguished; and Paris, without its brilliantly-lighted cafés, with their thronging multitudes, is Paris no longer.

A dispatch-bag arrived from London this morning, bringing Washington dates to the 7th, and New York papers to the 8th instant. As I propose leaving for Versailles to-morrow morning I shall not have the honor of writing you further to go by the dispatch-bag which leaves for London to-morrow night.

I have, &c.,

E. B. WASHBURN.

No. 133.

Mr. Washburne to Mr. Fish.

[Extract.]

No. 423.]

LEGATION OF THE UNITED STATES,
Paris, April 23, 1871. (Received May 10.)

SIR:

You are aware that Monseigneur Darboy, the archbishop of Paris, was seized some time since, by order of the commune, and thrust into prison to be held as a hostage. Such treatment of that most devout and excellent man could have but created a great sensation, particularly in the Catholic world. On Thursday night last I received a letter from Monseigneur Chigi, archbishop of Myre and nuncio apostolic of St. Liège, and also a communication from Mr. Louoner, chanoine of the diocese of Paris; Mr. Lagard, the vicar general of Paris; and Messrs. Bourset and Allain, chanoines and members of the Metropolitan Chapter of the church of Paris, all making a strong appeal to me, in the name of the right of nations, humanity, and sympathy, to interpose my good offices in behalf of the imprisoned archbishop. I have thought that I should have been only conforming to what I believed to be the policy of our Government, and carrying out what I conceived to be your wishes under the circumstances, by complying with the request of the gentlemen who have addressed me. I, therefore, early this morning put myself in communication with General Cluseret, who seems, at the present time, to be the directing man in affairs here. I told him that I applied to him not in my diplomatic capacity, but simply in the interest of good feeling and humanity, to see if it were not possible to have the archbishop relieved from arrest and confinement. He answered that it was not a matter within his jurisdiction, and however much he would like to see the archbishop released, he thought, in consideration of the state of affairs, it would be impossible. He said that he was not arrested for crime, but simply to be held as a hostage, as many others had been. Under the existing circumstances he thought it would be useless to take any steps in that direction. I, myself, thought the commune would not dare in the present excited state of public feeling in Paris to release the archbishop. I told General Cluseret, however, that I must see him to ascertain his real situation, the condition of his health, and whether he was in want of anything. He said there would be no objection to that, and he immediately went with me, in person, to see the prefecture of police; and upon his application I received from the prefect a permission to visit the archbishop freely at any time. In company with my private secretary, Mr. McKean, I then went to the Mazas prison, where I was admitted without difficulty, and being ushered into one of the vacant cells the archbishop was very soon brought in. I must say that I was deeply touched at the appearance of this venerable man. With his slender person, his form somewhat bent, his long beard, for he has not been shaved apparently since his confinement, his face haggard with ill-health, all could not have failed to have moved the most indifferent. I told him I had taken great pleasure, at the instance of his friends, in intervening on his behalf, and while I could not promise myself the satisfaction of seeing him released, I was very glad to be able to visit him to ascertain his wants, and to assuage the cruel position in which he found himself. He thanked me most heartily and cordially for the disposition I had manifested toward him. I was charmed by his cheer-

ful spirit and his interesting conversation. He seemed to appreciate his critical situation, and to be prepared for the worst. He had no word of bitterness or reproach for his persecutors, but on the other hand remarked that the world judged them to be worse than they really were. He was patiently awaiting the logic of events and praying that Providence might find a solution to these terrible troubles without the further shedding of human blood. He is confined in a cell about 6 feet by 10, possibly a little larger, which has the ordinary furniture of the Mazas prison, a wooden chair, a small wooden table, and a prison bed. The cell is lighted by one small window. As a political prisoner he is permitted to have his food brought to him from outside of the prison, and in answer to my suggestion, that I should be glad to send him anything he might desire, or furnish him with any money he might want, he said that he was not in need at present. I was the first man he had seen from the outside since his imprisonment, and he had not been permitted to see the newspapers, or to have any intelligence of passing events. I shall make application to the prefect of police to be allowed to send him newspapers and other reading-matter, and shall also avail myself of the permission granted me to visit him, to the end that I may afford him any proper assistance in my power. I cannot conceal from myself, however, the great danger he is in, and I sincerely hope that I may be instrumental in saving him from the fate which seems to threaten him.

I have, &c.,

E. B. WASHBURNE.

No. 134.

Mr. Washburne to Mr. Fish.

No. 425.]

LEGATION OF THE UNITED STATES,

Paris, April 25, 1871. (Received May 10.)

SIR: Though I stated in my dispatch, No. 433, upon whose application it was that I intervened on behalf of the archbishop of Paris, I think it better to send you a copy of the letter of his excellency Monseigneur Chigi, the papal nuncio accredited to the government of France, and also a copy of the letter of the vicar-general of Paris and his associates, both of which were addressed to me, showing the grounds upon which they based their request. I have just learned that the British embassy was appealed to in this matter, before any application was made to me, and that all intervention whatever was declined. This action, however, of the English legation, if it had been known to me, would have made no difference, for I should have considered myself perfectly justified in extending my good offices, officiously, in behalf of a man so eminent for his piety and so distinguished for his liberal sentiments and philanthropic views as the archbishop of Paris, now so cruelly persecuted.

I have, &c.,

E. B. WASHBURNE.

Monseigneur Chigi to Mr. Washburne.

[Translation.]

VERSAILLES MANTREUIL,
2 Old Church Street, April 18, 1871.

MR. MINISTER AND DEAR COLLEAGUE: Permit me to request you to receive with kindness, in quite a confidential way, four ecclesiastic canons of the Metropolitan

Church in Paris, who come to implore your protection in behalf of the archbishop, incarcerated by the insurgents in Paris. Permit me to add my entreaties to those of the good canons, and to assure you of my deep gratitude for all you may be able to do, and to try, at least, to obtain that the life of Monseigneur Darboy be not in danger.

Be pleased, Mr. Minister, to accept the assurance of my high consideration and my gratitude.

FLAVIUS CHIGI,
Arch. de Mejren, Nonce Apostolique.

Mr. MINISTER PLENIPOTENTIARY: The sad events which are taking place in Paris have not failed to attract the attention of your excellency, and among other deplorable excesses which the civil war has caused in this unhappy city, the arrest of monseigneur the archbishop and the principal members of his clergy, will have been particularly remarked by the different representatives of powers friends to France.

Taking ground upon this friendship, and upon the good relations that exist between the Government of the United States of America and our country, we, the canons and members of the Metropolitan Church Chapter of Paris, such that could assemble, take the liberty to beg your excellency to be so kind as to interpose your good offices in a manner which you may think proper, in order to obtain as soon as possible the deliverance of our archbishop, and that the cause of humanity and civilization may cease to suffer in his person, doubly respectable, as well in his dignity as by his merits, one of the greatest infringements which could ever have been inflicted upon him.

Every political idea, however, being excluded, we place ourselves entirely upon the law of nations, and upon the sympathy that such unmerited treatment cannot fail to inspire, and we venture to hope that your excellency may favorably receive our request, and that you will give it such results as we may wish.

In this hope and confidence, we have the honor to be, Mr. Minister Plenipotentiary, your excellency's very humble and obedient servants.

LOUVRIER,
Chanoine Penitencier da Diocèse de Paris.
E. J. SAGARDE,
Vicaire Général de Paris, Archie-diacre.
EN BOUNET, *Chanoine.*
L. ALLAIN, *Chanoine, Secrétaire.*

No. 135.

Mr. Washburne to Mr. Fish.

[Extracts.]

No. 427.]

LEGATION OF THE UNITED STATES,
Paris, April 25, 1871. (Received May 10.)

SIR:

Before the Journal Officiel of the commune had reached the legation this morning, Mr. Malet, of the British embassy, called to see me in relation to a decree of the commune, which appeared in that paper of to-day, by which requisition was made of all the vacant apartments in Paris. As this was a matter of great importance to both English and American residents, who have furnished apartments in the city, we determined it was necessary to take immediate steps for the purpose of protecting such apartments from being occupied. We therefore addressed ourselves to M. Paschal Grousset, the délégué aux affaires étrangères.

He is a man of intelligence, education, and genteel personal appearance. He received us with genuine politeness, in the same room where I had been received by eight or ten different ministers of foreign affairs of the regular government. After explaining to him the object of our visit, he was very prompt to say that it was never intended that the

decree should include the apartments of foreigners, though by inadvertence it was not so stated. He said he would have the correction made, and that orders should be given that the apartments of foreigners should not be molested; that if we should hear of any disturbance of such apartments, belonging either to the Americans or the English, and would inform him of the fact, he would take immediate measures to have the evil corrected. We thanked him for so promptly and so satisfactorily responding to our wishes, and took our leave. * * * From the foreign office I went in person to the prefecture of police, to obtain the discharge of several Germans, one of them a priest, incarcerated at Mazas. There I found a young man in charge, who very promptly complied with my request, and gave me written orders to have them set at liberty. Yesterday an American lady called at the legation to beg me to interest myself to procure the release from prison of two Sisters of Charity, (French.) This lady was herself a Sister of Charity, and a daughter of the late Governor Roman, of Louisiana. The two nuns in prison were her friends, and had been torn away from the convent by some members of the national guard, about three or four weeks ago. She, of course, felt the greatest uneasiness in regard to their fate. I told her that while I could interfere in no way officially, I would, as an act of friendship to her as an American, call the attention of the authorities to the case of her friends. I accordingly mentioned the matter to the man in charge of the prefecture, and without hesitation he gave me an order for their release also. This I took in person to the depot of prisoners at the conciergerie, and, after waiting about an hour to have some formalities gone through, I had the pleasure of seeing the two sisters safely outside the prison-walls. From the conciergerie, I went to Mazas, and there I found no difficulty in securing the release of the three German prisoners, including the priest. I availed myself of the occasion of again being in the prison, and called upon the archbishop of Paris, taking to him some newspapers and a bottle of old Madeira wine. I found him about the same as he was on Sunday, and manifesting the same cheerful spirit. I was sorry I could not communicate to him a favorable change in the situation. * * * * *

I have, &c.,

E. B. WASHBURN.

No. 136.

Mr. Fish to Mr. Washburne.

No. 272.]

DEPARTMENT OF STATE,

Washington, April 28, 1871.

SIR: I have to acknowledge the receipt of your dispatch of the 8th instant, No. 413, inclosing the statement of the case of Mr. Albert C. Fougen, who claims to be a citizen of the United States, in regard to the appropriation and destruction of his property in France by the Prussian forces.

In reply I have to inform you that the Court of Claims, adopting the language of my predecessor, Mr. Seward, has decided it to be the law and usage of nations that one who takes up a residence in a foreign place, and there suffers an injury to his property, by reason of belligerent acts committed against that place by another foreign nation, must abide the chances of the country in which he chooses to reside, and his only chance,

if any, is against the government of that country, in which his own sovereign will not interest himself. Such has been the doctrine and practice of the United States and of the great powers of Europe, and this Government, therefore, cannot intervene in behalf of Mr. Fougen, or of any citizen of the United States, under the same circumstances.

I am, &c.,

HAMILTON FISH.

No. 137.

Mr. Washburne to Mr. Fish.

No. 429.]

LEGATION OF THE UNITED STATES,

Paris, April 28, 1871. (Received May 12.)

SIR: There has been but very little change of situation in Paris since I had the honor of addressing you my last dispatch. The Versailles troops have been vigorously bombarding the forts of Issy and Vanves for the past two or three days, but they have not yet taken possession of either of them. Constant fighting has been going on at Asnieres and the surrounding villages since Wednesday, but I can hear of no results. The applications for passes by the Alsatians and Lorrainers continue to be made in large numbers. I have already given more than fifteen hundred. Yesterday I ascertained that the authorities of the commune had, from a day or two before, been requiring a *visa* from the prefecture of police for all the *laissez-passeurs* I had given, and a fee of two francs for each *visa*. I immediately sent to the prefect to make a remonstrance, and he very promptly agreed to waive the formality which requires the holder of a pass to appear at the prefecture and pay the fee, and to put the stamp of the prefect upon such blank *laissez-passeurs* as I might send him. In my No. 427 I spoke of the interview of Mr. Malet and myself with Mr. Paschal Grousset, in regard to the protection of the apartments of foreigners. The Journal Officiel of the commune yesterday contained a notice on this subject from Mr. Grousset, a copy of which I inclose herewith, and which you will perceive goes as far as any one could ask.

We are yet in the dark as to the design of the Versailles government, so far as regards the reduction of Paris—whether an attempt will be made to take it by assault or whether it will be besieged. It will be six weeks to-morrow since the insurrection broke out, and the prospect of its suppression *seems* as remote as ever.

I propose to go to Versailles to-morrow, and to return on Monday. While there, I shall endeavor to present my letter of credence to Mr. Thiers.

I have, &c.,

E. B. WASHBURN.

No. 138.

Mr. Washburne to Mr. Fish.

No. 431.]

LEGATION OF THE UNITED STATES,

Paris, May 2, 1871. (Received May 16.)

SIR: Cluseret, having "strutted his brief hour on the stage," was suddenly withdrawn from public view on Sunday night last, having

been arrested by order of the commune and thrust into the Conciergerie. When his arrest became known yesterday, it produced a great deal of excitement in the city. There are various surmises in regard to the causes of this extraordinary arrest. The Journal Officiel of the commune of this morning says it is on account of his incapacity and his negligence, which had compromised the possession of the fort of Issy. There is another report that the late "delegate to the war department" was concerned in a plot to overthrow the commune; another, that he had sold himself to the Versailles government; and yet another, that he was a mere agent of the Orleans faction. At any rate, he is in jail, and a report is current to-day that he is to be sent to a military tribunal. Mr. Cluseret has been the leading figure in the insurrection for the past three or four weeks, wielding an immense power, and I am surprised that, having control of the army as he has had, he should have permitted himself to be thus "taken off." This arrest, together with a decree which appears in the insurrectionary Journal Officiel of this morning, organizing a committee of public safety, to consist of five members named by the commune, with the fullest powers and responsible only to the commune, has created a greater feeling of terror in the whole community than anything I have seen yet. Cluseret is succeeded by Colonel Rossel, who is a graduate of the polytechnic school, and an engineer officer in the regular army. He was in the army of the Loire, and, I believe, was recommended for a brigadier general, but the appointment was not made; whereupon he joined his fortunes to those of the commune.

It was believed at Versailles, when I left there at 3 o'clock yesterday afternoon, that the fort of Issy was taken, but the papers of the commune this morning deny it, and claim that they yet hold it. There are indications of a more desperate energy than I have yet seen. If the fort of Issy shall fall into the possession of the government, the forts of Vanves and Montrouge must very soon thereafter follow suite. When that takes place, I think we may expect a breach soon to be made in the walls of the city, and an attempt be made to enter. In the madness which prevails here, I will not undertake any prediction of what will happen in the event of an attempt to take the city by assault. I found at Versailles yesterday that a more cheerful feeling prevailed in the military circles, and great confidence was expressed that in one week the government would be master in Paris. From what I see and know of the situation here, I must say I have great doubts on the subject.

I regret to say that I consider the life of the archbishop of Paris in the most imminent danger. The report that Prince Bismarck had determined to intervene to save the life of the archbishop, having unfortunately got out, caused great excitement. On Sunday last a party of the national guards made their way into the prison of Mazas, with the avowed purpose of shooting the archbishop. Most fortunately, a member of the commune made his appearance at the moment, and was able to prevent the purpose from being carried out. The regular keepers of the prison were very much alarmed, and removed the archbishop from the cell which he occupied to another in a different part of the prison. What was prevented on Sunday by the accidental presence of a member of the commune may happen any day. Having reason to believe that General Fabrice is charged by his government to do what he can to save the life of the archbishop, and charged as I am here with the protection of German interests, as well as in the interests of humanity, I have deemed it my duty to send him a confidential verbal message,

by a member of my legation, advising him of the present critical position of the archbishop, to the end, if he have any instructions to intervene, that he may take such steps in the matter as he may deem proper.

I have, &c.,

E. B. WASHBURNE.

No. 139.

Mr. Washburne to Mr. Fish.

No. 433.]

LEGATION OF THE UNITED STATES,

Paris, May 5, 1871. (Received May 19.)

SIR: I shall send a dispatch-bag to London to-night, but shall have nothing of very great importance to communicate to you. Military movements under the walls of Paris have been more active for the past few days than at any time since the insurrection began, but I cannot see that the Versailles troops have made any great headway. After all the talk, the fort of Issy has not yet been taken, but I consider it impossible for it to hold out much longer. The bombardment of all of our portion of the city, from Mont Valerien and the fortifications at Courbevoie, was much heavier yesterday than it had been any day previous. Shells came down the Champs Elysées as far as the Palace of Industry. Of course I have no knowledge of the plans of the government troops, or what the expectation of the Versailles people is at the present moment, as to how soon they will be able to suppress the insurrection; but I must say now, as I have before said, that I see no immediate prospect of a speedy termination of this frightful contest. While the government, for six or seven weeks, has been concentrating its troops and gathering strength, the commune has been strengthening itself in a greater ratio. With an army of seventy or eighty thousand effective men, well armed and equipped, with an abundant supply of cannon of every caliber, and of mitrailleuses, with more ammunition than could be consumed in a year, with gun-boats upon the Seine, with the possession of all the forts on the south side of the city, it can well be imagined that it is no small job to take Paris at the present time, with its enceinte, and prepared, as it has now become, by its interior barricades and defenses, to resist at almost every step. And the pecuniary resources of the commune are unbounded, for it holds in its own grasp all the wealth of Paris. It only has to make its decrees, to be enforced by the national guard, to seize everything of value upon which hands can be laid. It not only lays under contribution every source of revenue, but it has now commenced an organized pillage. As I am writing, an Alsatian who has called upon me to ask my protection, as being a German subject, informs me that night before last some national guards, armed with the authority of the committee of public safety, invaded the magnificent hotel of Mr. Martin, (du Nord,) one of the richest manufacturers in France, in the rue de Paradis, and carried off everything they could find—furniture, plate, jewelry, decorations, &c., &c. The sole allegation against him was that having been a colonel in the national guards, he had left Paris and gone to Versailles. As time runs on, these outrages will increase in number, and without the warrant of any pretended authority whatever. Nothing can be more terrible than the present prospect in Paris, and the discouragement of all the better classes has become complete. I continue to have the greatest anxiety for the large interests of our countrymen here, as well as of those Germans who are under my protection,

and I propose to remain to protect them as long as my services can be of any value. The little that is to be done at Versailles at the present time can be attended to by Mr. Hoffman as well as by myself, and, as the interests which I represent are still so much more important in Paris, I have deemed it my duty, disagreeable as it is, to remain here most of the time.

The subjects of Alsace and Lorraine continue to throng the legation from morning until night, seeking *laissez-passeurs* and protection. The number of persons to whom I have given passes now reaches twenty-five hundred. I wrote to Prince Bismarck of the action I had taken in this regard, and he has directed General Fabrice, in command of the German forces now stationed near Paris, to thank me for what I have already done, and to request me to continue to act in the same way.

I propose to go to Versailles to-morrow and to pass the Sabbath with my family near Rambouillet, and to return here again on Monday. Our last dates are, from Washington, April 21, and from New York, the day following.

I have, &c.,

E. B. WASHBURN.

No. 140.

Mr. Washburne to Mr. Fish.

No. 437.]

LEGATION OF THE UNITED STATES,

Paris, May 11, 1871. (Received May 26.)

SIR: The crisis seems to be really approaching. You will have seen the announcement of the capture of the fort of Issy by the Versailles troops, and the report this evening is that the fort of Vanves has also fallen. The government, having apparently completed the preparations, is now attacking Paris with great fury. The new and powerful battery of seventy-two guns of the heaviest caliber at Montretout has been firing for the past few days on the enceinte, and particularly on the gate of Versailles. Large numbers of the government troops have crossed the Seine at Sevres, and, through the village of Boulogne-sur-Seine, advanced into the Bois de Boulogne. It is said that they were yesterday establishing breaching-batteries at a point not more than two or three hundred yards from the ramparts. When a breach shall be made in that direction, there will be little difficulty in coming inside of the walls and taking possession of Passy—in fact, of all that portion of the city in the neighborhood of the Arc of Triumph. The insurrectionary force are said to have been withdrawn from these positions, and the resistance that will be made by the insurgents will be in other parts of the city. I thought a week ago that the opposition would be greater than I am now satisfied it will be. The continued hammering away of the government troops, the surprise and capture of the redoubt Moulin Sacquet, the taking of Fort Issy, and the inevitable fall of the fort of Vanves, have created great demoralization in the city. Yesterday was a day of panic. The announcement of the capture of Fort Issy, and the extraordinary letter of Rossel, the delegate at the war department, giving his resignation, (a copy which I send herewith as a sort of historic document,) created a great commotion. The desperate wrangles in the commune, and the quarrel between that august body and the central committee, which were all well known to the public, added to the general excitement.

The members of the committee of public safety, as it was first organized, not having met public expectations, were suddenly discharged, and five other men of the most desperate character in the commune (one of them being a murderer) were appointed. Rossel, like his predecessors, Assi, Bergeret, and Cluseret, was arrested, and ordered to be sent to a military tribunal. It seems that he was put in charge for safe custody into the hands of one of the members of the commune, and it appears to-day that both the prisoner and his keeper have run away. Deleschuze, a notorious agitator, has been appointed to the war department in the place of Rossel, and if the Versailles troops do not come in, he may run a week before he finds a hospitable shelter within the walls of Mazas. Signs of demoralization and discouragement are everywhere visible. The national guard is being weakened every day, not only by its losses in actual combat and in prisoners, but by vast numbers of desertions. Almost every man who has the chance to do so with any degree of safety to himself is slipping out of the service, and instead of an army of sixty or eighty thousand, as claimed a week ago, I do not believe one-half that number can be counted on to-day. A good many think that, in the present feeling of discouragement, the government troops could enter and retake Paris without any serious resistance; but others, of an equal number, look upon a desperate contest and the shedding of a great deal of blood as inevitable. The worse things grow, the more desperate the commune becomes. One of its last acts is a decree for the immediate demolition of the house of Mr. Thiers. Pillage, under the name of "perquisitions," is the order of the day. All the churches are either closed or converted into club-houses. That immense edifice, the old and historic church of St. Eustache, has been the favorite place of resort for the revolutionary and turbulent population of the central part of the city. All the convents have been shut up, and all the priests and a large number of the Sisters of Charity have been imprisoned. All of the valuables belonging to the churches and to the convents have been stolen and carried off. The archbishop is still in prison, and his situation is becoming daily more and more dangerous. I am interesting myself officiously in endeavoring to have him exchanged for Blanqui, who is under sentence of death for contumacy for his part in the attempted insurrection of the 31st of October last. The commune has once agreed to make the exchange, which Mr. Thiers declined, but the archbishop, who I saw in prison yesterday, thinks he may now agree to it, in view of the increasing dangers to which he is exposed.

In addition to the letter of Rossel, I send you a copy of the proclamation of Mr. Thiers to the people of Paris, and also, as a curiosity, I send you some numbers of the insurrectionary journals published in the city. Of the papers I have been in the habit of sending you, all have been suppressed except the *Siecle*. Applications for *laissez-passer*s for the Alsatians and German Lorrainers continue to be made in great numbers. We have given two hundred and forty-three to-day, making the whole number three thousand four hundred and seventy-four, and "the cry is, still they come."

MAY 12, 1871.—Nothing new to-day of any importance. While the fighting continues very fiercely all around, we see no evidence of the Versailles troops coming into the city. The insurrectionary Journal Officiel of this morning contains a furious address to the people of Paris from the committee of public safety, charging treason and corruption in the ranks, the first fruit of which was the abandonment of Fort Issy. It says that the threads of the dark conspiracy have been discovered, and that the largest portion of the guilty have been arrested. It further

says that while the crime of these men is frightful, their chastisement will be exemplary; that a court-martial is sitting in permanence, and that justice will be done. It is very probable that Cluseret is embraced among the "guilty."

The same journal contains a decree of the commune, suppressing six additional papers, making twenty-one in all that have been discontinued by the insurrectionary authority.

I have, &c.,

E. B. WASHBURNE.

No. 141.

Mr. Washburne to Mr. Fish.

[Extracts.]

No. 441.]

LEGATION OF THE UNITED STATES,

Paris, May 16, 1871. (Received June 1.)

SIR: I went to Versailles on Saturday last, to relieve Mr. Hoffman for two or three days, and returned on Monday evening. The situation there seems always to be the same. They are continually on the point of coming into Paris. It was so four weeks ago, and it was so last Monday. The day for the "supreme effort" evidently draws nigh, but I will have more to say on this subject in a later dispatch. In Paris I found there had been no particular change in things on my return. The work of the demolition of the house of Mr. Thiers in the Place St. Georges progresses. The hatred and rage of the commune against the chief of the executive power surpasses all bounds. The insurrectionist Journal Officiel of this morning has another decree in relation to the subject, providing that all the linen found in the house should be sent to the hospitals; that all the objects of art and valuable books should be sent to the Bibliotheque and National Museums; that the furniture should be sold at public auction, after being exposed in the sales-rooms, and that the products of the sale should go to the widows and orphans of the victims of the war, and the same destination should also be given to the proceeds of the sale of the materials of the house; and, lastly, that "upon the site of the hotel of the parricide should be established a public square." Mr. Thiers had lived in this house for nearly half a century, and it was there that he composed his great works and prepared the speeches which he had delivered at the French tribune, and there he had received the most celebrated political persons and savans of the age. There he had gathered the rarest works of art, books, and manuscripts that were to be found in all Europe. Such vandalism is without a parallel in the history of civilization. The national convention decreed the destruction of the house of Buzot, the Girondist, who had fled from Paris after the days of the 31st of May and 2d of June, when the convention placed him, among others, in accusation, but the destruction of the plain home of a deputy, not enriched by associations and historic souvenirs, was as nothing to the vandalism exhibited in the demolition of the house of the head of the French nation. As I write, 5.30 p. m., word comes to the legation that the "Column Vendome" has just fallen. Notice had been given from day to day that it was to fall at a stated hour, and immense crowds have been awaiting the moment of its overthrow. The Journal Officiel of the commune this morning announced that it would be thrown down precisely at 2 o'clock in the afternoon,

and as I drove along the boulevard, at the head of the Rue de la Paix at half past 2, the crowd of people collected in that place and in the Rue Castiglione was immense. Great numbers in this crowd were hoping that this splendid work of art would continue to resist all the appliances used to tear it down, until the arrival of the Versailles troops, but by far the greater number were waiting with intense anxiety for the moment when it might finally fall before a spirit of hatred and revenge which could see a triumph in the destruction of a work that had excited the wonder and admiration of the world. While the authorities of the commune had some time since protested that no Germans remained in prison, not a day passes but that it is made known to me that more or less of them are still incarcerated. The whole time of Mr. McKean, who acts as my private secretary, is taken up in visiting the prisons, and procuring the release of these persons. General Fabrice wrote me, a few days since, that four of the Sisters of Charity who were at the convent of Picpus, about which there has been so much scandal, were Germans, and that they had been arrested and imprisoned. He desired that I would have them immediately released. Mr. McKean addressed himself to the subject yesterday, and visited the delegate to the ministry of justice in relation to it. The delegate alleged that an examination disclosed that murders had been committed in the convent, and that those particular sisters, with others, were held until it could be ascertained how far they were involved. The delegate in person took Mr. McKean to the convent, and explained to him the horrors that had been there enacted. While there he saw many things that were suspicious, as explained to him, he seems incredulous in regard to the confinement of the insane women in the little boxes, about which so much has been said, and which has created such an intense feeling.

The commune has now commenced its "perquisitions" for arms and men, taking the city by arrondissements. The national guards, under arms, surround the arrondissements, and keep all persons from going in or coming out. They then make an entry into each house, and go into every apartment and every room. If a door is not opened, it is immediately forced by a locksmith who always accompanies the guard. All arms, of whatever nature, are seized and carried off. If a man is found, they demand of him "*pourquoi vous n'êtes pas de la Garde Nationale?*" If he does not prove that he is a foreigner, or that he does not owe service, by reason of age or infirmity, he is dragged away to some depot. There he is put into the uniform of a national guard, a musket placed in his hand, and then he is at once sent to the front.

The decrees and action of the commune are becoming more and more outrageous, and I might say ridiculous, every day. One of the last performances is a decree providing that every citizen shall be supplied with a "*carte d'identité*," giving his name, age, profession, domicile, &c. The manner of obtaining this card is prescribed, and any man who is not the bearer of one, is to be arrested and kept in arrest until he can regularly establish his identity. It is the duty of all national guards to require the exhibition of this card. This decree is in poor imitation of 1793, when, during the reign of terror, every person was required to have his "*certificate of civism*." The reason given by the commune for this decree is, that the government of Versailles is seeking to introduce its secret agents into Paris, charged with the mission of making an "*appeal to treason*." The decree has been very badly received by the population of Paris, and even the most violent of the commune journals criticise it severely. If it should be attempted to

carry it into execution, it would tend to put an end to all circulation in the city, for every man would be liable to be called upon by some over-zealous national guard to show his papers at about every step.

The suppression of newspapers still goes on. Six or seven have been suppressed since my last dispatch. The *Siecle*, that old republican journal, which was the only one left of the papers which you had directed to be sent to the Department, is in the last list of those proscribed. A new paper appears this morning, under the title of *Le Bulletin du Jour*, and I think it is the *Siecle* under another name. I send you some numbers of this last.

Scarcely a day passes at our legation here without some singular incident. The man who commanded the whole of the national guard in Paris on the 18th of March, the day of the accomplishment of the insurrection, was Charles Lullier. He is a man of about thirty-two years of age, and was, up to within the last two or three years, a lieutenant in the French navy. He had been traveling in the United States, and only returned to France last October.

In the accomplishment of his purposes to release Germans from prison, Mr. McKean has had occasion to meet Mr. Delescluze, the new delegate at the ministry of war. He represents him as a most perfect type of the Jacobin and revolutionist of 1793. On visiting the war department, he found about forty officers awaiting their turn of admission to the presence of the delegate. He sent in his card, and was immediately admitted, finding Delescluze installed in the same room where we had some three or four weeks before seen Cluseret in all the pride of his power and authority. There sat Delescluze in the same chair.

The wranglings and dissensions continue in the commune. Twenty-two of the members have issued a manifesto, charging that the body has abdicated its power into the hands of a dictatorship, which is called the committee of public safety, and declared itself irresponsible, abandoning the situation to the committee. They consequently state that they will not again appear in the commune until a different state of affairs exists, but will go into the midst of their brothers in the national guard. There is no doubt that the committee of public safety has now absorbed about all the powers of the present insurrectionary government, and has become the authority of the commune greater than the commune itself. A new phase of outrage was developed yesterday. A German, who had a shop in the Rue St. Antoine, had gone from the city, leaving his goods and effects in the charge of an agent. The agent appeared at the legation to-day to ascertain if protection could be given to him. The national guard had been to the premises of which he had charge and forced an entrance. He immediately sought a member of the commune, to protest against this outrage, saying that the proprietor was a foreigner, and that his property was entitled to be respected. The answer was that the property of no man, either a Frenchman or a foreigner, who had left Paris, had any right to be respected, and would not be, but that it would be confiscated to the commune. Satisfying myself that the owner of the shop was a German, who had a right to claim my protection, I gave a paper certifying to that fact, and stating that the property, being that of foreigner, was entitled to be respected and protected; and further, I informed the agent verbally that he might tell all persons who proposed to interfere with the property, that if any damage were done I should deem it my duty to inform General Fabrice of the fact, and he undoubtedly would take all measures necessary in the case. I have no opportunity to send to London to-night, and shall

therefore retain this dispatch to go by the bag which I shall send out on Friday night next.

I have, &c.,

E. B. WASHBURN.

No. 142.

Mr. Washburne to Mr. Fish.

No. 444.]

LEGATION OF THE UNITED STATES,
Paris, May 19, 1871. (Received June 1.)

SIR: When I had the honor to address you my No. 437, under date of the 11th instant, I felt certain that before another week should roll around the Versailles troops would enter Paris. There was great demoralization in the city and among the national guard, and it seemed to me that if the government had attacked with any energy, its troops would certainly have been inside the walls before this time. Such, however, is not the case, yet the fighting for the past few days around the entire south side of the city has been very furious. Day by day passes and we see no troops of the line yet in Paris. The fort of Vanves was captured from the commune on Sunday last, and Montrouge must be at the end of its defense. Confusion increases in Paris; the commune is torn by intestine dissension, but yet the city is held, not so much, in my judgment, by the military strength of the insurrectionists as by the weakness of the attacking party. It seems impossible, however, for this condition of things to continue much longer. The insurrectionary authorities are more desperate than ever. In an official communication this morning, they say the committee of public safety is decided to blow up Paris and bury every one under its ruins rather than capitulate. Of course this is all wild talk, but it shows to what straits they feel themselves reduced.

I need not tell you how rejoiced I shall be when peace returns to this distracted and unhappy city, and when we shall have a more quiet state of affairs. The pressure upon the legation continues. As I am the only chief of a mission who remains in Paris, my good offices are sought for every hour of the day, not only by our own countrymen, but by people of other nationalities, who have an idea that I can be of some assistance to them. The Alsatians and German Lorrainers continue to come to seek my protection in increasing numbers. I reach the legation at quarter past 8 o'clock every morning, always to find a crowd of them assembled there. More than two hundred are now waiting in the street under my window, to receive their *laissez-passer*s. The whole number of passes issued by me now amounts to four thousand four hundred and fifty. As each case requires a special examination, to ascertain whether the party seeking protection is entitled to it, by virtue of his having become a German subject, you can well imagine the amount of labor that is involved. I have ten persons employed in this service, not members of the legation. When the treaty of peace shall have been definitely ratified at Versailles, I hope that Prince de Bismarck will send a diplomatic representative here to relieve me.

The committee of public safety publishes a decree this morning suppressing ten more papers, and forbidding the publication of any new journals during the war. Several of the newspapers suppressed this morning have been supporters of the commune. I believe that every

paper published in Paris before the insurrection, excepting *La Verité*, has been suppressed. Since I commenced writing this dispatch, I have again visited the archbishop, to communicate to him that it was impossible to effect his exchange for Blanqui. I am sorry to say I found him very feeble. He has been confined to his pallet for the last week with a kind of pleurisy; is without appetite, and very much reduced in strength. He is yet cheerful, and apparently resigned for any fate that may await him.

I have just learned that the treaty with Germany was ratified by the national assembly at Versailles yesterday, almost unanimously.

I have &c.,

E. B. WASHBURNE.

No. 143.

Mr. Washburne to Mr. Fish.

No. 445.]

LEGATION OF THE UNITED STATES,

Paris, May 22, 1871. (Received June 7.)

SIR: The day of the 22d of May will become an important era in the history of Paris and of France. It was nine weeks on Saturday last since the insurrection broke out, and those weeks have run wearily on in the expectation that every week would be the last. I returned to my lodgings last night at about 11 o'clock, and had heard nothing, and could see nothing, that showed any change in the situation. But it now appears that, at half-past 3 o'clock yesterday afternoon, the first division of the army of the reserve, commanded by General Vergé, entered the gate of St. Cloud, which is on what is called the "route of Versailles." A breach had been made at that point, but I am informed that it was not the expectation of the regular troops that they could enter at that time; but they pressed forward, and finding but little opposition, they were soon within the walls. The national guard retired very slowly, and such was the state of things existing, and so loose was the military organization of the commune, that it was not known until into the night that the Versailles troops had passed the enceinte. The commune was reposing in fancied security, and it was not until after midnight that they were advised as to the full extent of what had happened. Then was there "hurrying to and fro," the tocsin was sounded all over the city, the *generale* was beaten, orderlies dashed furiously in every direction, but all to no purpose. The national guard, becoming demoralized, began to retreat hastily before the advancing forces. The entrance into the city having been made at the Porte de St. Cloud, the consequence was that the commune troops that had been guarding the enceinte, and all the gates from that of St. Cloud clear round to the Porte des Iernes, found themselves taken in the reverse, and by 4 o'clock this morning they had abandoned all their positions and fled to the interior of the city. The gates of Auteuil, Passy, and La Muette being then left undefended, the troops of the line began pouring in through all of them. It was not until 6 o'clock this morning that I heard of what had taken place. My servant came to tell me that the troops were in, and that the *tricolored flag* floated on the top of the Arc de Triomphe. I hurried into the street and saw for myself the flag flying from the scaffolding supporting the machinery which had enabled the insurgents to draw up and plant upon the top of the arch five pieces of cannon. By this time, the head of the

column advancing into the city and passing along the right bank of the Seine, by the Coms la Reine, was vigorously attacking the Place de la Concorde. At the same time another column crossing the avenue of the Champs Elysées, near the Arch, was marching in by the Avenue de Freidland and down the Rue Faubourg St. Honoré. At about 9 o'clock the insurgent batteries at Montmartie began shelling the Place d'Etoile, and soon many shells fell in the immediate neighborhood of the legation, but fortunately we received no damage. The fighting has continued all day about the Place de la Concorde, and it does not seem that the Versailles troops have gained much ground. At 3 o'clock this afternoon, accompanied by a friend, I took a ride along all those portions of the ramparts which have been bombarded by Mont Valerien, the great battery at Montretout, and the several breaching batteries. We passed around from the Porte de Dauphine, which is so near my residence to the Porte de St. Cloud. I was at my house for the first time for two weeks, and found it but very little injured. Two pieces of shell had entered, and besides the breaking of considerable glass, there was no material damage. Some houses in the vicinity received many shells, and several of them have been pillaged. My servants who lived in the cellar were enabled to keep out the brigand national guards, although they made one or two serious demonstrations.

In going from the Porte de Dauphine, which had not been very severely bombarded, to the Porte de St. Cloud, (more generally known as the Point du Jour,) we passed the gates of La Muette, Passy, and An-teuil. Breaches had been made at all of them, and the destruction of property inside the enceinte has been immense. Nothing could live under the terrible fire of Mont Valerien and Montretout. An English military man told me he thought the battery of Montretout was the most powerful battery the world had ever seen. Never have I seen such a "wreck of matter;" guns dismounted, their carriages torn to pieces, barricades leveled, and buildings entirely demolished. We saw along the line of the ramparts many dead bodies of the national guard, several of them in a state of decomposition. The firing was so dreadful that it had been impossible to get them away. Returning from the Point du Jour into the city, we saw additional troops coming in, and the streets of Passy were crowded with them. It is estimated that from eighty to one hundred thousand troops of the line will be in the city before to-morrow morning. In all our part of the city they have been received with unbounded joy by the few people remaining. The citizens are congratulating each other that they are at last delivered from the oppression and terror of the last two months.

As I write, at 10 o'clock at night, the fight seems to be going on as furious as ever at the Place de la Concorde. I shall continue this dispatch to-morrow, and shall hope to be able to send it over to London to-morrow night.

TUESDAY MORNING, May 23, 1871.—It seems difficult to get at anything reliable this morning. The fight continues, and always in the same neighborhood. The firing was terrific all last night. Shells from Montmartie were continually falling in our quarter, but it is extraordinary how little the damage has been. We can see from the top of the legation building that the *red flag*, that hated emblem of assassination and pillage, anarchy, and disorder, still flies from the Tuileries and from the ministry of the marine. The insurgents are evidently making a desperate resistance.

A gentleman has just come to the legation who proposes to leave at noon to-day for London. I therefore close this dispatch suddenly to

send by him. I send also a telegraphic dispatch to be transmitted to you from London to-morrow.

I have, &c.,

E. B. WASHBURN.

Mr. Washburne to Mr. Fish.

LEGATION OF THE UNITED STATES,
Paris, May 23, 1871. (Received June 7.)

SIR: On the other page I have the honor to send you a copy of a telegraphic dispatch, which I send to London to-night to be transmitted to you from there by Mr. Moran.

I have, &c.,

E. B. WASHBURN.

[Telegraphic dispatch from London.]

Mr. Washburne to Mr. Fish.

[LEGATION OF THE UNITED STATES,
Paris, May 23, noon.]

FISH, Washington:

Desperate fighting for thirty-six hours. Still continues. Versailles gains ground slowly, but surely.

WASHBURN.

No. 144.

Mr. Washburne to Mr. Fish.

No. 448.] PARIS, May 24, 1871. (Received June 7.)

SIR: My narration of the prodigious events which have been transpiring in Paris since Sunday last closed at noon of yesterday. As it was impossible to reach those parts of the city in which the fighting was going on, I only knew that the contest was raging with unparalleled fury in the central portion of it. At half past 5 or 6 o'clock of yesterday it was evident that an immense fire had broken out at the chancellerie of the legion of honor. Soon we saw the smoke arising in other parts of the city, showing but too plainly that the terrible threats of the commune of a general conflagration had commenced to be carried out. I was at the headquarters of Marshal McMahon, at Passy, at about 9 o'clock in the evening, for the purpose of soliciting the sending of troops at the earliest moment for the release of the Archbishop of Paris and other hostages in the prison of Mazas, and there I was told by an officer of the staff that the palace of the Tuileries was on fire. On my return I could discover nothing, and I hoped that he had been mistaken. At 1 o'clock this morning I was awakened by a friend, who told me that the palace was all in flames. I hurried to a position from which I had a full and complete view of the fire. It was a starlight night, calm and beautiful. An insurgent battery, which had been for twenty-four hours shelling our part of the town, was still sending its bombs into the immediate neighborhood of the legation every fifteen minutes. The roar

of other cannon, the "crépitement" of the mitrailleuses and the sharp rattling of the chassepots fell upon the still of the night. The lurid flames rising from the burning palace lighted up half the heavens, and the whole scene was the most terrible I had ever witnessed. To the fire of the Tuileries were added other conflagrations, the ministry of finance, the buildings of the Rue Royal, and other fires which seemed just started. At one time it appeared to those of us who were watching the progress of the conflagration that the "Hospital des Invalides" was certainly on fire, but as the night wore on, daylight disclosed its gilded dome intact, and we discovered, to our great gratification, the fire was a short distance beyond in the same direction. At 5 o'clock this morning I sent a messenger to Versailles with a telegraphic dispatch for you in regard to what had taken place. Coming to the legation at 9 o'clock, I heard that the Versailles troops had captured the strong positions at the Place de la Concorde and the Place Vendome. I at once took my carriage and proceeded in that direction, passing down the Boulevard Haussman to the Place St Augustin, and the Caserne Pepiniere. The insurgents had occupied the Caserne, and were driven out after a fight of about two hours, but it was at the foot of the Boulevard Malesherbe, behind the Madeline, and at the junction of several streets, that the insurgents had strong barricades; in fact, the key of their position was there, for if the Versailles troops could once pass that point they could easily take the great barricades in the Rue Royale, the Rue de Rivoli, and the Place Vendome, in the reverse, and here the most desperate fighting took place for a period of nearly thirty-six hours. The neighborhood presented a most dreadful appearance this morning. The sidewalks of the splendid Boulevard Malesherbe were filled with horses, baggage-wagons, and artillery carriages. The houses had been more or less torn with shot and shell; the trees were all cut to pieces by the fire of the artillery and musketry, and their branches filled the street. A dead national guard was lying in an excavation for a cellar near by. In a small open space in the next street was the blood of two soldiers of the line, who had been summarily shot as deserters. Proceeding further, I reached the front of the church of the Madeline, at the head of the Rue Royale, and many of the buildings of that great thoroughfare were in flames, and others seemed literally to have been torn in pieces by the fire of the cannon and musketry. Going further up the Boulevard Capucines, I found many of the buildings completely riddled, and upon the sidewalk was a dead national guard, and in a side street, a short distance from there, yet another dead body of the insurgent guard, people passing by and looking on them with apparent satisfaction. I went to the Place Vendome, which had been evacuated during the night, and there for the first time saw the great column lying in the position in which it had fallen. The insurgents had not time to remove the bronze, which is now to be made use of in the speedy restoration of the column; the national assembly having decreed that it shall at once be restored. The Place de la Concorde was evacuated at the same time, the insurgents retreating in the direction of the Hotel de Ville and up the rue Lafayette. From the Place Vendome I went to the rue de Rivoli, and proceeded cautiously toward the Tuileries, under the arcade. The Tuileries building was still burning, and the flames were bursting out in a part of the building where they had not before reached. It seemed that it would be impossible to save the Louvre, but I hear, as I write, that its preservation is secured, with all its treasures of art and its historic interest. During the entire afternoon the fires have been raging in many directions, and from the legation the sound of battle can be distinctly heard,

but it is almost impossible to procure any reliable intelligence in regard to what is taking place. Most certainly something more definite can be ascertained in the morning.

THURSDAY, *May 25*.—When I closed my dispatch last night it was fire and battle. It is the same this morning. There were frightful burnings all the night. The great Hotel de Ville, with all its traditions and souvenirs of history, exists no longer. The Cour des Comptes, the Court of Cassation, the Prefecture of Police, and the celebrated old prison of the Conciergerie, have shared the same fate. All has been the work of organized incendiarism, and the insurrectionists have done everything in their power to destroy Paris. If the entry of the troops had been delayed much longer, they would certainly have succeeded. The commune had already made "perquisitions" for all of the petroleum in the city, and prepared petroleum-boxes and other means of firing the place. Bands of men, women, and children were organized to do this diabolical work. During the past two days immense numbers of these persons have been detected in distributing these boxes, and in every case the most summary vengeance has been inflicted upon them, without regard to age, sex, or condition. An employé of this legation counted, this afternoon, on the Avenue de Autin, the dead bodies of eight children, the eldest not more than fourteen years of age, who had been seized while distributing their incendiary boxes, and shot on the spot. The state of feeling now existing in Paris is fearful beyond description. Passing events have filled the whole population opposed to the commune with horror and rage. Arrests are made by the wholesale, of the innocent as well as the guilty. Last night four Americans—two gentlemen and two ladies—innocent as yourself of all complicity with the insurrection, were seized, while dining at a restaurant, and marched through the streets to one of the military posts. They sent word to me as soon as possible of their arrest, and I lost no time in going to their relief. I addressed myself to General Donai, who, upon my statement, immediately ordered their release. He expressed much regret at what had happened; but said that, in the existing excited state of feeling, it was impossible to prevent the arrest of innocent persons; that if, unfortunately, the arrest of any other Americans occurred, they would be immediately released upon my application, unless charged with crime for which they could be justly and legally held. I went down in the city this afternoon to see for myself what was the progress of events. Very little has been done towards putting matters into shape in the parts of the city already captured from the insurgents. The barricades everywhere remain. The fire was still raging in the Rue Royale. The ministry of finance is completely consumed, with every record and paper—a loss that is utterly incalculable. The insurgents having been driven beyond the Place Bastille, I was able to go much farther than I went yesterday. I passed up the Rue de Rivoli by the smoking ruins of the Tuileries, and had the inexpressible pleasure of seeing for myself that the Louvre, with all its untold and incalculable treasures, had been preserved. As I continued up the street it seemed as if I were following in the track of an army. Reaching the Hotel de Ville, I found the neighborhood had all the appearance of an intrenched camp. Immense barricades were on every street leading into the square. But I am told that the insurgents abandoned it without a fight, finding themselves upon the point of being hemmed in. But before leaving, they applied the torch to that pile so interwoven with the history of Paris and of France, and the pride of all Frenchmen for centuries gone by. Now there was nothing but a mass of smoldering ruins. Two squares

of magnificent buildings on the lower side of the Place de l'Hotel de Ville had also been destroyed. It was indeed a sad sight to behold. There was a regiment of the troops of the line on the quay, but scarcely another soul was to be seen in the entire neighborhood. Eight dead bodies of the insurgents, partially consumed by fire, lay on the ground right in front of what was the main entrance into the building, and presenting the most horrible appearance, and sad sights everywhere. At the Place de l'Opera, I saw some five hundred prisoners, men, women, and children, who were being driven to Versailles. There was a squad of cavalry marching in the front and in the rear of them, and foot soldiers marching on either side. I must say they were the most hideous and sinister-looking persons I ever saw in the whole course of my life. The sight of the prisoners excited the people to the highest pitch of indignation, and every opprobrious epithet was heaped upon them, and the escort alone prevented violence from being inflicted upon them on the spot. An officer told me this afternoon that the order was to shoot every man taken in arms against the government. I do not vouch for the truth of what he told me, but I do know that large numbers of the national guard and many others, caught in some criminal act, have been summarily executed. I have had great fears that the Prussian embassy might be burned. I learned to-day that suspicious persons were lurking about the premises, and I immediately addressed a note to Marshal McMahon advising him of my apprehensions, and asking him to detail a guard to protect the building. He answered me promptly that my request had been complied with. It is with no small degree of satisfaction that I am able to inform you that during all these horrible excesses in Paris for the past ten weeks no material damage has been done to the property of Americans, neither to the property of the Germans, with whose interests I still continue to be charged. Some few Americans have been arrested, but all were immediately released on my application. As I have written you before, the number of Germans and Alsatians whose release from prison I have obtained is quite large. Among the last persons to be released were eleven German nuns who had been seized at the convent of Picpus.

After being set at liberty they came to the legation in a body, to thank me for my efforts in their behalf. What I feared most was the robbery of our countrymen under the pretext of taxes. Many demands for the payment of taxes to the commune had been made upon Americans, but, as I have before advised you, I told all who consulted me on the subject not to pay, but take the chances. However, the machinery for collecting these taxes had just been got ready, and the day of the 25th instant was the time it was to be put into operation. Armed with mandates from the committee of public safety, the national guards would have gone everywhere, and demanded the payment of a certain sum as a tax upon all apartments, houses, business establishments, &c. If the amount was not paid by the proprietor, or, in his absence, his agent or concierge, the most valuable things would have been seized and carried off. You will see, therefore, that the entry of the Versailles troops on the 22d was just in time to prevent this organized pillage. The only newspaper I have been able to get since the entry of the troops is the *Verite*, two copies of which I send you, the last number appearing Wednesday morning, although dated to-day. No paper has appeared to-day, as far as I can learn, except a little sheet called the *Constitution*, which is out this evening. There is not an omnibus running in the whole city, and scarcely a cab can be found. No persons, except such as have a diplomatic character, or their bearers of dispatches, are permitted to leave Paris. I

have not time now to speak more fully of the scenes of carnage, fire, and blood, of which Paris has been the theater for the last four days. They are without parallel in all its history. What took place on the days of July, 1830, when Charles the Tenth was overthrown; the days of February, 1848, when Louis Philippe was chased from the throne, and the subsequent days of the insurrection in June of the same year, was mere child's play as compared with the events of the present week. The fighting has been long, desperate, and persistent. The insurrectionists have fought at every step with the fury of despair. Even as I write, at the hour of midnight, the contest is not yet ended, for I hear the booming of the cannon beyond the "Place de la Bastille." The government troops have displayed great bravery, and have never for a moment recoiled before the formidable and deadly barricades of the insurgents. They have shown the spirit of the old French army.

FRIDAY NOON, *May 26, 1871.*—The fighting is still going on this forenoon in the remote parts of the city, and new fires have broken out. I have no news of the fate of the archbishop of Paris, but the general belief is that all the hostages have been shot. The Prussian embassy is all safe and intact. My messenger for London is waiting, and I must close this dispatch.

I have, &c.,

E. B. WASHBURNE.

No. 145.

Mr. Hoffman to Mr. Fish.

[Extracts.]

No. 451.]

LEGATION OF THE UNITED STATES,
Versailles, May 26, 1871. (Received June 14.)

SIR: I do not know whether Mr. Washburne, who is at Paris, will be able to send a messenger to-day to London as usual. Very strict orders have been given to permit no one to pass the gates. I think it well therefore to inform you, that when I last heard from the legation, on the evening of the 24th, that part of the city in which it is situated was perfectly tranquil and safe. The office had been struck by a shell, but no one had been hurt. According to the last reports from Paris, the insurrection is now confined to Belleville and to Fort d'Ivey. Everywhere else it has been crushed, and in the strongholds referred to it can hold out but a few hours. The vandalism of the insurgents in destroying the public buildings they could not hold has never been equaled in history. Happily the Louvre and Bibliothèque Nationale, the most valuable of them all, have been saved. The Tuileries, the Hotel de Ville, and others of inferior historic interest, have perished.

Petroleum is now the madness of the hour. Quiet housekeepers are stopping up the vault openings in the pavement, on the ridiculous pretext that bands of women are roaming through the streets pouring petroleum into the vaults and then setting fire to it.

You will, no doubt, receive full information from Mr. Washburne of all that is passing in Paris as soon as the gates are open. It is expected that this will be in a day or two, and that early next week trains will be running to and from Paris as usual.

I am, &c.,

WICKHAM HOFFMAN.

No. 146.

Mr. Washburne to Mr. Fish.

No. 467.]

LEGATION OF THE UNITED STATES,
Paris, June 15, 1871. (Received June 29.)

SIR: Lieutenant Colonel Count Waldersee, the new chargé d'affaires for the German Empire near the French government, arrived in Paris yesterday, and to-morrow will relieve me of the duties which I have discharged for the past eleven months, as connected with the protection of German subjects in France. He brought with him a letter from the Prince Bismarck, a copy of which I inclose herewith. I shall have the honor, at a subsequent time, of addressing you another and further communication upon this subject. I will only say that I feel great satisfaction in being relieved from the duties I have performed in this connection. I hope now to be able to leave for Carlsbad by the last of the present month.

I have the honor, &c.,

E. B. WASHBURN.

BERLIN, June 13, 1871.

SIR: I have the honor to inform your excellency that, in order to restore the regular diplomatic intercourse between the German Empire and French Republic, I have appointed Lieutenant Colonel Count Waldersee, the bearer of the present letter, chargé d'affaires at Paris preparatory to the nomination of a representative of His Majesty the Emperor.

His Majesty has commanded me to convey to your excellency the grateful acknowledgment for the zeal and kindness you have devoted to the interests of the German residents under circumstances of extraordinary difficulty, and with corresponding sacrifice of time and personal comfort. I beg to add the reiterated expression of the sense of obligation I shall ever preserve for the uniform promptness and courtesy I have experienced from you in a business connection of nearly a twelvemonths' duration.

With sentiments of the highest consideration, I have the honor to be your excellency's obedient servant,

BISMARCK.

No. 147.

Mr. Washburne to Mr. Fish.

No. 473.]

LEGATION OF THE UNITED STATES,
Paris, June 29, 1871. (Received July 13.)

SIR: As connected with the history of the insurrection and of the tragic fate of the archbishop of Paris, I have the honor to send you herewith, to go into the archives of the Department, a copy of all the correspondence and papers in regard to the imprisonment of the archbishop, and the measures taken to obtain his release.

I have, &c.,

E. B. WASHBURN.

Archbishop Chigi to Mr. Washburne.

VERSAILLES, MONTREUIL, 2 *Rue de la Vielle Église*, April 18, 1871.

SIR AND MY DEAR COLLEAGUE: Permit me to request you confidentially to receive kindly the four ecclesiastical canons of the Metropolitan Church of Paris, who come to beg your protection in favor of their archbishop, imprisoned by the insurgents at Paris. Permit me to join my prayers to those of these good canons, and to assure you of my great gratitude for all that you think you can do to endeavor, at least, to obtain that the life of Monseigneur Darboy shall run no danger.

Receive, &c., &c.,

FLAVIUS CHIGI,
Archbishop of Myre, Apostolic Nuncio.

SIR: The sad events which are passing in Paris have not failed to attract the attention of your excellency. Among other deplorable excesses to which civil war has given birth in this unhappy city, the arrest of monseigneur the archbishop, and of the principal members of his clergy, has been particularly remarked by the different representatives of the powers friendly to France. Relying upon this friendship and on the good relations which exist between the governments of the United States of America and our country, we, canons and members of the Metropolitan Chapter of the church of Paris, who have been able to meet together, take the liberty to beg your excellency to have the goodness to interpose your good offices, in such manner as you shall judge best, to obtain the deliverance of our archbishop as soon as possible; that the cause of humanity and of civilization may cease to suffer in his person, doubly respectable by his dignity and his merits—one of the greatest injuries it has ever received.

No political object being connected with this step, and placing ourselves solely on the ground of the laws of nations, and of the sympathy which so undeserved a treatment cannot fail to inspire, we dare to hope that your excellency will receive our movement favorably, and that you will do in this connection all that we could desire.

In this hope and this confidence, we have the honor to be, &c., &c., &c.,

E. J. LAGARDE,
Vicar General of Paris, Archdeacon.
EN. BONNET, *Canon.*
L. ALLAND,
Canon and Secretary.

LOUVREUR,
Canon Penitentiary of the Diocese of Paris.

REPUBLIC OF FRANCE,
Paris, April 23, 1871.

Prefecture of the Police.—Cabinet of the Secretary General.

(See the 23d April; 25th April; 9th May, and 10th May, 1871.)

We, member of the commune, civil delegate to the prefecture of police, authorize the citizen Washburne, minister of the United States, and his secretary, to communicate freely with the citizen Darboy, archbishop of Paris.

RAOUL RIGAULT. [SEAL.]

Examined May 9, 1871.
The chief of the division.

EDWARD ERNAUD. [SEAL.]

Mr. Washburne to Archbishop Chigi.

PARIS, April 24, 1871.

MY DEAR COLLEAGUE: I came into Paris Saturday night, and that very evening I arranged to meet one of the head men of the commune yesterday morning, at 9 o'clock. I cannot do better than to send you an account of what was done, which I have written to my Government. I send you, therefore, inclosed herewith, and *confidentially*, a copy of a dispatch I sent to Washington last night. After reading my dispatch I will thank

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you to inclose it to me, No. 7 rue de Mademoiselle, Versailles. I inclose herewith also a letter from the archbishop to the Abbé Lagarde. I shall hope to see you further in regard to the archbishop when I shall next be at Versailles.

Very truly, &c.,

E. B. WASHBURNE.

Archbishop Darboy to Mr. Washburne.

I beg the minister of the United States to accept my thanks for the kind visit he has had the goodness to make me in my prison, and to send the inclosed letter to its destination by his secretary, who is going to Versailles.

The address of the person to whom it is written will be found through his excellency the apostolic nuncio, or the bishop of Versailles. If the person to whom the letter is addressed has already started for Paris, the secretary of the minister can destroy it, or bring it back on his return to Paris.

G. DARBOY,

Archbishop of Paris, from the prison of Mazas, April 23, 1871.

Confidential.]

VERSAILLES, MONTREUIL, April 25, 1871.

SIR AND DEAR COLLEAGUE: Truly I do not know how to thank you for all that you have had the kindness to do to aid the worthy archbishop of Paris. You have done more than I could have hoped, notwithstanding the confidence with which I was inspired, knowing the sentiments of humanity and of pity of your heart, and the generous nation you represent so worthily in France; and I am sure that the steps you will take with the men into whose hands lies the fate of Mr. Darboy, will not fail to produce the most favorable result which it is possible to hope for under present circumstances.

I have read with great interest, and with sentiments of profound gratitude towards yourself, sir, the despatches you have had the kindness to communicate to me in confidence and with reservation, and I hasten to send them back herewith, with all my thanks to the legation of the United States at Versailles, according to the direction in your honored letter of yesterday.

Colonel Hoffman has informed me that you will soon be at Versailles, and I have begged him to inform me of your arrival, that I may, without delay, call to express to you all my gratitude and my respect.

In the meantime, please accept, for the present, the renewed assurance of my sentiments of gratitude, and of the distinguished and affectionate consideration with which I am, &c.,

FLAVIUS CHIGI,

Archbishop of Myre, Apostolic Nuncio.

APRIL 28, 1871.

I beg his excellency the minister of the United States to receive the homage of my respect, and to have the goodness to send the inclosed letter to Versailles.

The address of Mr. LaGarde, in case the representative of his excellency does not know it, can be found either at the residence of the nuncio or at the Episcopal palace at Versailles.

G. DARBOY,

Archbishop of Paris.

AT MAZAS, April 28.

I beg his excellency the minister of the United States to receive the homage of my respect, and to have the goodness to permit me to have recourse to his kindness to send the inclosed letter to Versailles.

I shall be very grateful to him for it.

G. DARBOY,

Archbishop of Paris.

The address of Mr. La Garde is, without doubt, known to the representative of Mr. Washburne at Versailles.

In any case it can be had from the nuncio, or from the bishop of Versailles."

Memorandum of the Archbishop of Paris.

It is not known precisely what answer Mr. Thiers has given to the proposition made to him for the release of Blanqui, with a view to obtain in exchange the release of the archbishop of Paris, and of four or five persons held like him. The vicaire general Lagarde, who went to Versailles to attend to this matter, has sent here only vague and incomplete reports on the results of this step, but as he does not return, it is believed that all hope of success is not lost.

In default of precise information, it is conjectured that the government fears that it will appear to be treating with the commune, if it accepts the proposed exchange, and in addition, possibly regards the liberation of Blanqui as dangerous, in the midst of the present excitement. Now, parties who are interesting themselves either for Mr. Blanqui, or for the archbishop, desire earnestly that the following considerations should be submitted to Mr. Thiers, who will appreciate them in his wisdom and humanity, and it is believed they would have great weight if presented to Mr. Thiers by his excellency the minister of the United States.

The question is not between the commune and the government, but between the government and the parties above mentioned. The latter have arranged that the archbishop, and four or five other prisoners, to be designated by Mr. Thiers, shall be sent to Versailles, if they can have the assurance that Mr. Blanqui will receive his liberty. This assurance is to be guaranteed verbally by the minister of the United States, he being verbally authorized by Mr. Thiers. As to the liberation of Mr. Blanqui, instead of ordering it officially, would it not be possible to accomplish it by allowing him the facility to escape, with the understanding, of course, that he will not be retaken unless it be for the commission of some new offense? In this manner the government would have nothing whatever to do with the commune, some one, apart from the commune, would receive the assurance given by Mr. Washburne, and all would be arranged.

There could be no serious danger in liberating Mr. Blanqui, even in the present condition of things.

The resistance of Paris is a military resistance entirely, and the presence of Mr. Blanqui could add nothing to it.

The political and social ideas which are represented by the commune are not in themselves, nor in their application, those of Mr. Blanqui, and if he should associate himself with the commune it would not be a bond of union between the members which compose it, but rather a new element of discord.

At all events it does not appear that a settlement of the present conflict will be brought about through the political or social theories or policy of the commune, but only by the force of arms. It could therefore be no embarrassment if Mr. Blanqui were set at liberty, even though he should return to Paris. Whether he would do so or not is unknown.

If it were known precisely for what reasons Mr. Thiers hesitates to act favorably upon the proposition of exchange which has been submitted to him, it might be possible to attenuate their force, and to bring him perhaps to a better conclusion. Besides, he should not remain in ignorance that the life of the archbishop is seriously menaced. In saving him, Mr. Thiers, we believe, would give great satisfaction to the French clergy, and particularly to the episcopate.

Memo.—Written in the prison of Mazas, May 10, 1871.

E. B. W.

VERSAILLES, MONTREUIL, May 12, 1871.

SIR AND DEAR COLLEAGUE: Mr. McKean handed to me this morning the letter you did me the honor to address to me yesterday, as well as the copy of the memorandum written by the archbishop of Paris, and I also received only a few days ago, through the post office and much behind time, the other letter which you also had the kindness to write me on the 29th of April, to which were joined two letters of Mr. Darboy for the Abbé Lagarde, to whom I handed them immediately. This morning I sent confidentially to Mr. Thiers the memoir of the archbishop, and I have begged of him a confidential reply, that I may send it to you to be delivered to Mr. Darboy, through your kindness. If I should receive the reply, as has been promised me, by 3 o'clock, I shall hasten to transmit it to you, begging you to make it known to monseigneur the archbishop. In the mean time, it is well that you should know how matters stand.

Mr. Thiers, having received some time ago the letter brought by Abbé Lagarde, submitted, first to the council of the ministers, and then to the commission of the fifteen deputies whom he has associated with himself, the question of the exchange of Blanqui on one side and the archbishop and four or five ecclesiastics on the other, and all unanimously refused their consent to such an arrangement. After this, Mr. Thiers declared that, notwithstanding the desire he felt to see the archbishop at liberty, as well as the Abbé Duguerry, who was his personal friend, he could not take upon himself to carry

out the exchange. He added that Mr. Blanqui was to be submitted to a new trial, and if he was condemned to death, he, as President, would have the power to spare his life; but as for setting him free, above all before he was tried, he could not do it; this would be beyond his power as chief of the executive power. This reply, addressed to Mr. Darboy more than two weeks ago, was drawn up, and Mr. Lagarde was requested to carry it to the archbishop in a sealed envelope as it was. But Mr. Lagarde refused, and still refuses, giving as the motive of his refusal that he cannot carry a reply in a sealed letter to a letter which he brought unsealed. Thus the letter of Mr. Thiers remains still at the ministry "des cultes," and they are unwilling to send it except by Mr. Lagarde, who, on his side, does not wish to take charge of it.

Mr. Thiers desires also to assure me that he has the conviction that neither the life of the archbishop of Paris, nor those of the other ecclesiastics who are at this moment in prison, are in danger.

For my part I do not share, I confess, the confidence of the President on this subject.

FOUR O'CLOCK.—I have just returned from the palace of the prefecture. Mr. Thiers read attentively the copy of the memoir of which I have spoken above, and he repeated, after mature reflection, the same observations which he made in his reply to the letter of Mr. Darboy. He decided not to set Blanqui at liberty, but apparently to spare his life if he should be condemned to death. This is all his powers permit him to do. Besides, it would never be possible for him to sanction an iniquity consisting in seizing hostages among distinguished people in order to set free scamps and culprits by lending himself to such plans of exchange, more or less covered up. He repeated the assurance that the life of the archbishop ran no danger whatever, and he ended by saying that in about two days the troops would be in Paris, and all danger would disappear.

This, my dear colleague, is the answer which I can give you, and regret with you that it is not more in accordance with the desire of the archbishop and with your charitable and generous design. In terminating, permit me to communicate to you, in accordance with the orders his eminence Cardinal Antonelli has transmitted to me, the sentiments of gratitude of the Holy Father the Pope, and of the cardinal, for all that you have done and all that you may do in favor of the archbishop, so unjustly tortured.

Accept, sir, also, with my sincere and affectionate thanks, the renewed assurance, &c., &c., &c.,

FLAVIUS CHIGI,
Archbishop of Myre, Apostolic Nuncio.

COMMUNE OF PARIS,
Paris, May 18, 1871.

Cabinet of the procureur of the commune.

The director of the Mazas will permit Citizens Washburne and McKean to communicate with the prisoner Darboy.

Permanent.

RAOUL REGOULT,
Procureur of the Commune.

Examined the 21st May, 1871.

Mr. Washburne to Archbishop Chigi.

PARIS, May 11, 1871.

MY DEAR COLLEAGUE: Mr. McKean, my private secretary, will call on you in relation to the archbishop. He will hand you a copy of a memorandum made by him on the subject of an exchange for Blanqui. I need not assure you that I shall be very glad to do anything that is proper in this matter—officially, of course—to facilitate any arrangement that might be made. Mr. McKean visited the archbishop with me yesterday, and can explain to you fully in regard to him.

I have the honor to be, &c.,

E. B. WASHBURN.

Mr. Washburne to Mr. W. B. Norcott.

PARIS, May 11, 1871.

DEAR SIR: I sent to-day a copy of the memorandum of the archbishop of Paris, in regard to his being exchanged for Blanqui, to Monseigneur Cligi, and told him that I would gladly do anything which would be proper, but of course *officiously*. I think the archbishop put the question very fairly, and I hope his memorandum will be brought to the attention of Mr. Thiers. I can well understand the reasons the Versailles government might oppose to the proposition for an exchange, but it seems to me they might be got over in this case, where the life of such a man as the archbishop is in danger. The French government could lose nothing in placing Blanqui in liberty, and by so doing would probably save the life of the archbishop. I consider his life in the most imminent danger, and for that reason, and with a desire to assuage his sufferings in prison, I have been willing to lend all my good offices in the matter. In your visit to Versailles I hope you will be able to secure the consent of Mr. Thiers to the exchange. I believe the commune have agreed to release several prisoners, including M. Beaujon, besides the archbishop, in case Beaujon could be put in liberty. That might be an additional consideration with Mr. Thiers.

I am, &c.,

E. B. WASHBURNE.

His Excellency the MINISTER OF THE UNITED STATES in France:

SIR: I know what interest your excellency has shown in favor of Monseigneur Darboy, archbishop of Paris, and I know what gratitude the friends of the Catholic Church will feel toward you for it. Permit me, sir, in invoking this interest, to beg your excellency to take a step which will be, without doubt, of service to Monseigneur Darboy. The celebrities of the bar of Paris having left the capital, monseigneur has had the goodness to choose me as his counsel. I consequently asked of the Citizen Raoul Regault, procureur of the commune, the permission required to visit him at the prison of Mazas. I have had two consultations with monseigneur. These interviews enabled me to take certain steps having a character of public interest, and I had hoped that they might be renewed from time to time, when the commune of Paris suppressed all the permissions which had been accorded to visit the priest-prisoners, and authorized the Citizen Ferré, one of its members, to grant henceforth such authorizations as he should judge to be proper. Notwithstanding my earnest request to him, notwithstanding my character of counsel, which should have prevented a refusal—for a prisoner cannot be deprived, without barbarity, of advice of counsel—I have been able to obtain nothing from Mr. Ferré, who exhibits an unyielding severity. I have, therefore, the honor, appealing to my sincere devotion to monseigneur the archbishop, (and without this being suggested to me by any one,) to beg your excellency to consent to employ your great influence to obtain from Citizen Ferré the permission which he refuses me without giving any reason. I ask pardon of your excellency for importuning you in this manner, and I hope that you will excuse my indiscretion for the sake of the motive which dictates it.

I am, with great respect, sir, your obedient servant,

PLOU.

[Address:]

ETIENNE PLOU, *Juriconsulte, Rue Ventadour, No. 6.*

PARIS, May 11, 1871.

No. 148.

Mr. Hoffman to Mr. Fish.

No. 503.]

LEGATION OF THE UNITED STATES,
Paris, August 18, 1871. (Received August 31.)

SIR: I have the honor to forward to you herewith a copy of a letter received from Mr. de Rémusat, conveying the thanks of the agricultural society of Cher for aid sent from the United States to the farmers of that department.

The society expresses its thanks to the people of the United States,

to the New York committee, and to Mr. Henry Tukee Parker, of Boston, who was charged with the distribution of the funds.

I inclose translations of the letter of Mr. de Rémusat, and of the proceedings of the society.

I am, &c.,

WICKHAM HOFFMAN.

Mr. de Remusat to Mr. Hoffman.

[Translation.]

VERSAILLES, August 16, 1871.

SIR: I have the honor to inform you that at its session of July 15 last, the society of agriculture of Cher, which had been charged with the distribution of seed-corn to the farmers of that department, victims of war, voted its thanks to the United States of America for the succor which they had so generously sent to our rural population. You will find herewith an extract of the proceedings of the session of July 15, setting forth this vote.

I shall be obliged to you, sir, if you will convey to your Government the sentiment of gratitude expressed by the society of agriculture of Cher.

I have, &c.,

REMUSAT.

[Translation.]

BOURGES, August 2, 1871.

Extract from the proceedings of the society of agriculture of Cher, of July 15, 1871:

The society of agriculture of Cher having heard the report of Mr. Amillon, one of the members, deeply touched by the proofs of the sympathy of the foreign nations who have come to the aid of our rural population, victims of the war, votes its thanks to the people of the United States of America, to the American committee of New York, to Sir Henry Parker, who came to bring us the proofs of their sympathy.

A true extract.

AMILLON.

Seen and warmly approved by the vice-president of the society of agriculture, acting president.

O. W. CAPZ, *President.*

GERMANY.

No. 149.

Mr. Bancroft to Mr. Fish.

No. 165.]

LEGATION OF THE UNITED STATES,
Berlin, November 29, 1870. (Received December 13.)

SIR: The day which the President selected for the national thanksgiving was also the day on which the Diet of North Germany convened for the last time. With the opening of the new year the North German Union will be merged in the United States of Germany.

I am able to inclose to you to-day a copy of the substance of the treaties effecting this union with Bavaria and Württemberg. The grand result is brought about by the liberal and orderly tendencies of the German people, by the patriotic wisdom of a part of its rulers and the

apprehensions of the rest. The new organization bears the marks of its origin. The aristocratic party who desired an upper house of princes and nobles has found no hearing; and as yet the chief of the United States of Germany retains the name of President.

Should the South German dynasties desire that he should be called emperor the North would probably yield its assent; but thus far the change of name has not been made; the title of kaiser is not specially in favor. Regenerated Germany renounces all affinities with the Roman empire of the middle ages. When the deliberations on the new constitution are at an end, I will endeavor to report to you the final result of the complicated negotiations. At present I call your attention to the restrictions imposed on the President of Germany as to the declaration of war, which hereafter will require the previous consent of the German council.

In my former reports I have led you to expect for United Germany the establishment of the most liberal government on the continent of Europe, and all that I may have led you to expect seems likely to be realized. In one sense the new government is the child of America; but for our success in our civil war it would not have been established. Our victory in that strife sowed the seeds of the regeneration of Europe.

A great international result is the first consequence of the union of Germany. This people, though willing to free Russia from the restrictions on her rights as a sovereign, disapproved the abrupt manner in which the Czar took his redress. Count Bismarck proposes a conference at London for the settlement of the difficulty which has thus been raised, and the British ministry gladly accepts his friendly and conciliatory intervention. The Oriental question, as it has been called, assumes a larger importance, and now involves interests extending from Constantinople, or rather from Monte Negro, to the Japanese Seas. Heretofore it has been considered as a question of rivalry between Russia and Great Britain; two other powers now rise up in strength, Germany and the United States, both most deeply interested in the solution, and both looking at it with other eyes than those of Great Britain; both untouched by jealousy of Russia, both anxious for the spread of civilization in Asia, and both ready to welcome oppressed Christian nationalities to the recovery of freedom, culture, and prosperity.

I remain, &c.,

GEO. BANCROFT.

No. 150.

Mr. Fish to Mr. Bancroft.

No. 275.]

DEPARTMENT OF STATE,

Washington, December 6, 1870.

SIR: Referring to the previous instructions of the Department and to your dispatches, as to "trade-marks convention," I again call your attention to the subject. In most, if not all, of the States of this Union, the protection of parties entitled to the exclusive use of trade-marks is afforded by the courts upon the principles of the unwritten common law, including of course what is known as equity law. Upon these principles the courts restrain, by injunction, the violation of a trade-mark in the way of preventive justice, and award damages by way of remedial justice. There are in some of them statutes in aid of the common law

on this subject, but none, so far as known, restrictive of it. These principles are plastic and adapt themselves to the exigencies of justice as those exigencies develop themselves.

Under this administration of the unwritten law, all foreigners, not being public enemies, and whether residents of the United States or not, have always received the same protection as citizens. The right to such protection has been adjudged both by State and Federal tribunals. [So it has in England.] The act of Congress of July 8, 1870, (16 Stat., 210, et seq.,) provides for the registration of trade-marks and for their protection through the Federal courts. The remedies thus created are confined by section 77 to foreigners (if located or resident abroad) whose governments, by treaty or convention, afford similar privileges to citizens of the United States. Any person or firm (but not a foreign association) domiciled in the United States, are, as this Department is advised, entitled to its benefits irrespective of reciprocity toward citizens of the United States. The seventy-eighth section limits the effect of registration to thirty years, but it is careful at the close to declare that it shall not unfavorably affect the claim of any person to a trade-mark after the expiration of the term for which it was registered. I am not aware that at common law there is any limitation whatever to the time for which a right of property in a trade-mark may be maintained. Upon principle the right gathers strength with the lapse of years. With this exposition of the present laws of the United States, you will probably be in a position to advise the Department whether the property of citizens of the United States in trade-marks is protected in North Germany, or, if that is not the case, you will be able to judge what course to pursue in the execution of the instructions already given you in this respect.

I inclose a copy of the act of 1870, referred to above.

I am, &c.,

HAMILTON FISH.

No. 151.

Mr. Fish to Mr. Bancroft.

No. 278.]

DEPARTMENT OF STATE,

Washington, December 16, 1870.

SIR: I acknowledge the receipt of your dispatch of the 29th of November, ultimo, No. 165, in regard to political affairs in Germany. I have perused the paper with much interest, and am persuaded that the facts presented in it which indicate a tendency in the German nationalities to assimilate their constitution and government to the liberal principles which have so well stood the test of our own experience, will excite profound satisfaction among the American people, and wherever such liberal principles are approved and cherished.

I am, &c.,

HAMILTON FISH.

No. 152.

Mr. Bancroft to Mr. Fish.

No. 170.]

LEGATION OF THE UNITED STATES,
Berlin, December 17, 1870. (Received January 7, 1871.)

SIR: I yet owe to the Department an answer to two questions proposed to me in your No. 223, of August 23, 1870.

Napoleon had expected Prussia and Austria would exhaust themselves in the campaign of 1866 and leave him the umpire of Europe. He was taken by surprise by the swift success of Prussia. He still hoped to secure to himself acquisitions of territory as a condition to his assent to the peace. For this purpose the Emperor, from Vichy, sent to Mr. Benedetti, at Nicholsburgh, the project of a treaty which the ambassador communicated to Count Bismarck in a note bearing date the 5th of August, 1866. I inclose to you a photographic fac-simile of the project of treaty and of the note of Mr. Benedetti.* The Emperor demanded, first, a retrocession of the territory of Prussia held under the treaty of 1815 in excess of the line proposed in the treaty of 1814. Secondly, the Emperor demanded the cession of all that Hesse and Bavaria held on the left of the Rhine. Further, the Emperor demanded that Luxemburg should never again be included in the German Union, and that Prussia should give up its right to garrison the fortress of Luxemburg.

The consequences of this proposition were most momentous. First, Prussia and Austria hastened their peace, of which France was nominally the mediator; but, while it is usual for the mediating power to sign the treaty, the ambassador of France did not do so, which was a sign of discontent. Next, the anxiety of France to acquire the Bavarian palatinate and the territory of Hesse on the left bank of the Rhine, enabled Prussia to turn the southern states from enemies into allies, by an offensive and defensive alliance which has now ripened into a consolidated union. The next design of Napoleon was upon Luxemburg, a province which did not belong to Holland, but had the King of Holland for its sovereign. A war seemed unavoidable between the Emperor and Prussia. The strife was ended by the London conference in May, 1867. This is the time when Mr. Benedetti came forward with a new proposition of a treaty that France might receive an acquisition of territory not German but Belgian. Of this treaty I inclose a fac-simile.† As the treaty bears no date, the exact day on which it was taken to Count Bismarck cannot be stated. Here, then, is an answer to your first question: The time when Mr. Benedetti delivered to Count Bismarck the project of the treaty for the surrender of Belgium to France was during the agitation of the Luxemburg question, perhaps in April, 1867.

Your next question is why Count Bismarck did not publish to the world this project of a treaty at the time when it was delivered to him? He did not, indeed, publish the proposition of France, for it might have brought on a war, which he strove to avoid, and the treaty was published only when war had come. But the views of this government on the propositions were in another form made public. The Emperor of France, finding that his propositions met with no acceptance at Berlin, turned his thoughts to Austria, and brought about, in August, 1867, a meeting with the Emperor of Austria at Salzburg. The advantage proposed to

* For inclosures, see Foreign Relations, 1870, pp. 223, 224.
† For inclosure, see Foreign Relations, 1870, p. 199.

Prussia for betraying Belgium into the hands of France was the consent of France to coercing the southern states into the North German Union. In the circular of the 7th of September, 1867, Count Bismarck, referring to the meeting of the two Emperors, which he describes as certainly not dangerous to the peace of Germany, proclaims the intention of Prussia always firmly and in defiance of all other powers to maintain the rights of Germany to reform its constitution as an internal domestic right, which other states should not impair by intervention, or prevent by menace; but never, under any circumstances whatever, would North Germany coerce the southern German states, or any of them, to join the North German Union, being resolved to wait till they themselves should ask to be received. This state paper and the commentaries given to it by later circulars form some of the most important documents of these late wonderful years. These papers are marked in principle by moderation, and are expressed with a clearness and decision that left no room for misunderstanding. Count Bismarck first maintained that not a bit of German territory should be ceded; and when it was proposed that France should take Belgium, and North Germany South Germany, he rejected the offer and asserted with energy that no foreign power whatsoever, not even Austria, had any right to interfere with the union of North and South Germany; that it was a question for the German states to settle exclusively among themselves. In this lay the most perfect answer to the project offered in 1867 by Count Benedetti. I annex a memorandum found in the imperial archives and published in the "*Journal Officiel*," as well as an historical circular of Count Bismarck, dated July 29, 1870,* and the reply of Mr. Von Thile to Count Benedetti, dated the 10th of August, 1870.†

I remain, &c.,

GEO. BANCROFT.

No. 153.

Mr. Bancroft to Mr. Fish.

No. 169.]

LEGATION OF THE UNITED STATES,
Berlin, December 17, 1870. (Received January 7, 1871.)

SIR: Immediately on receiving your No. 264, respecting the interruption of communication between our minister at Paris and the Department, I explained to the secretary of state the opinion of the American Government, that the diplomatic right of a minister to communicate with his government is paramount to any right that may accrue to a belligerent. The case being a very simple one, it was easy at once to view it in all its aspects. The secretary of state here did not recede, and probably had not power to recede, from the position assumed by the besiegers of Paris. His answer was, first, that the opinion which our Government maintains had been presented by the representatives of eighteen several governments, and that the answer had been the same to them all, so that it was plain that the United States suffered only from a general measure, which was esteemed a necessity. Next, the secretary reminded me that the interruption, which existed at the time of our interview, sprung from those holding authority in Paris, the inference being that the one belligerent had proceeded in the matter as far as the other.

* See Foreign Relations, 1870, p. 200.

† See Foreign Relations, 1870, p. 223.

Since my first interview with Mr. Von Thile on the subject, the inclosure, No. 269, has been received. I have made inquiries among my colleagues and find that the Swiss Republic presented a paper which I have read, and which in tone and argument is very similar to that of the Department to Baron Gerolt. No other power has taken any further notice of the matter. As a practical question it will soon lose its interest; as a speculative question it is much discussed. There are not wanting those who think that the German view will be maintained. Every disposition has been shown to facilitate the intercourse of this legation with the legation at Paris, but that courtesy does not alter the main question.

I remain, &c., &c.,

GEO. BANCROFT.

Mr. Jules Favre to Count de Bismarck.

MINISTRY OF FOREIGN AFFAIRS, CABINET.

COUNT: The diplomatic corps now at Paris request me to ask your excellency that they may be notified in the event of a bombardment, and allowed to leave the city. They would also like to be allowed once a week to dispatch a courier (mail)—exclusively diplomatic—accepting all the precautions which your excellency might think proper to take.

In transmitting this two-fold wish to your excellency, I beg you to accept the sentiments of high consideration with which I have the honor to be, &c.,

JULES FAVRE.

Count de Bismarck to Mr. Jules Favre.

FERRIERES, September 26, 1870.

MR. MINISTER: In reply to the note which I have this day had the honor to receive from your excellency, I regret to say that military considerations forbid me to make any communications with regard to the time and manner of the approaching assault upon the fortress of Paris.

The permission of correspondence from and with a besieged fortress is not usual according to the rules of warfare, and although we will willingly permit the transmission of open letters of diplomatic agents, I cannot share the opinion of those who regard the interior of the fortifications of Paris during a siege as a proper central point of diplomatic intercourse. This view of the case seems to be shared by the neutral governments whose agents have removed to Tours.

Receive, &c.,

VON BISMARCK.

Circular of Mr. Von Thile.

BERLIN, September 26, 1870.

Since the French authorities have declined an armistice, and made Paris the theater of war, and since there is no recognized government in Paris, and the *de facto* government, as we learn, has been removed to Tours, the undersigned has the honor, most respectfully, to notify you that safety of communication with Paris exists only according to military events.

The undersigned avails himself of this occasion to renew to Mr. — the assurance of his most distinguished consideration.

THILE.

The Papal Nuncio and representatives of seventeen other powers to Bismarck.

PARIS, October 6, 1870.

COUNT: The undersigned, members of the diplomatic corps residing at Paris, had, on the 24th of September last, the honor to transmit to your excellency the expression of their desire that a courier bearing their official dispatches might, each week, on

days to be appointed, pass the lines of the besieging army, and go to a locality whence the regular postal service was sure.

By a letter of the 3d of October, the minister of foreign affairs of France has just informed us that he has received from your excellency the reply "that a diplomatic courier could not pass the lines of the besieging troops save on condition that the dispatches be open and treat of no subject relating to the war."

We should have considered it our duty, as to the contents of our dispatches, scrupulously to conform to the obligations imposed, during a siege, upon diplomatic agents, by the rules and usages of international law. On the other hand, our position as diplomatic agents, and our duties toward our governments, do not permit us to accept the other condition, only to address open dispatches to them.

If this latter condition were to be adhered to, it would become impossible, to their great regret, for the diplomatic representatives of neutral states to maintain official relations with their respective governments.

Be pleased to accept, Comte, the assurances of our very high consideration.

The Apostolic Nuncio, FLAVIUS,

Archbishop of Myre.

KERN,

Minister of the Swiss Confederation.

Baron ADELWÄRD,

Minister of Sweden and Norway.

Baron MOLTKE HUITFELDT,

Minister of Denmark.

Baron EUGENE BEYENS,

Minister of Belgium.

LOPEZ DE AROZEMENA,

The secretary, chargé d'affaires ad interim of the legations of Honduras and Salvador.

Baron DE ZUYLEN DE RYEVELDT,

Minister of the Netherlands.

Chevalier HENRIQUE LUIZ RATTON,

Chargé d'affaires of Brazil.

Viscount DE LANCASTRE,

Chargé d'affaires of Portugal.

E. B. WASHBURNE,

Minister of the United States.

TORRES CAICEDO,

Minister Resident of the United States of Colombia.

Duke D'ACQUAVIVA,

Chargé d'affaires of Monaco and San Marino.

WILLIAM MARTIN,

Chargé d'affaires of Hawaii.

JULES THIRION,

Chargé d'affaires of Santo Domingo.

VINCENTE DE BALLIVIAN Y RODAS,

Minister of Bolivia.

P. GALVEZ,

Minister of Peru.

Count de Bismarck to Monseigneur Chigi.

VERSAILLES, October 10, 1871.

MONSEIGNEUR: I have had the honor to receive the letter bearing date of the 6th of October last, whereby the members of the diplomatic corps still residing at Paris have been pleased to inform me that it would become impossible for them to maintain official relations with their respective governments, if the condition of only being able to address to them open dispatches was to be adhered to.

When the continuation of the siege of Paris was rendered inevitable by the refusal of an armistice by the French government, the government of the King notified, of its own accord, by a circular note from the secretary of state, Mr. Van Thile, under date of the 26th of September last, a copy of which I have the honor to transmit to you, the agents of neutral powers accredited to Berlin, that freedom of communication with Paris only existed so far as military events permitted it. On the same day I received, at Ferrières, a communication from the minister of foreign affairs of the government of the national defense, which informed me of the desire expressed by the members of the diplomatic corps to be authorized to send dispatches to their governments by couriers leaving every week, and I did not hesitate acting in accordance with the rules established by international law, to make a reply dictated by the necessities of the military situation, a copy of which I likewise take the liberty of trans-

mitting to your excellency. The present representatives of power have thought proper to establish the siege of their government in the midst of the fortifications of Paris, and to choose that city and its environs as the theater of war. If any members of the diplomatic corps, accredited to a former government, have decided to share with the government of the national defense the inconveniences which are inseparable from a residence in a besieged fortress, it is not the government of the King that is responsible therefor.

Notwithstanding our confidence that the gentlemen who signed the letter of the 6th of October would conform, in communications addressed to their governments, to the obligations which their presence in a city besieged according to the laws of war imposes on diplomatic agents, we must still consider the possibility that the importance of certain facts, in a military point of view, might escape them. It is moreover evident that they would be unable to furnish us the same guarantee for the messengers whom they should see fit to employ, and whom we should be obliged to allow to pass and repass through our lines.

A state of things has been created at Paris, in relation to international law, with which modern history shows no precise analogy. A government at war with a power which has not yet recognized it, has shut itself up in a besieged fortress, and is there surrounded by a portion of the diplomatic agents who were accredited near the government whose place has been taken by the government of the national defense. In the face of so irregular a situation, it will be difficult to establish, on the basis of the law of nations, rules which shall be incontrovertible in every point of view.

I think I may hope that your excellency will see the correctness of these observations, and will be pleased to appreciate the considerations which prevent me, to my great regret, from complying with the desire expressed in the letter of the 6th of October last. If, however, the signers shall not consider my remarks just, the governments which they have represented at Paris, and to which I shall hasten to communicate the correspondence exchanged with them, will give notice on their part, and will put themselves in communication with the government of the King to examine the questions of international law relating to the abnormal position which events and the measures of the government of the national defense have created at Paris.

Be pleased to accept, &c., &c..

BISMARCK.

Circular of Mr. Von Thile.

BERLIN, October 19, 1870.

I herewith most respectfully transmit to your excellency copies of—

1. The circular note which I addressed, in relation to the safety of communication with, from, and in Paris, on the 26th of last month, to the representatives of neutral states accredited to that court.
2. A joint note from members of the diplomatic corps at Paris, to the chancellor of the union, dated the 6th instant, in which it is requested that a weekly mail may be sent from Paris.
3. The reply to the same, addressed to the papal nuncio in Paris, together with the correspondence therein mentioned between Mr. Jules Favre and Count Bismarck.
4. The note by which the aforesaid documents are communicated to those governments whose representatives took part in the step mentioned, (sub. 2,) either directly or through the mediation of our diplomatic agents.

I take the liberty, most respectfully, to request your excellency to be pleased to present all these documents, as confidential information, to the government to which you have the honor to be accredited.

The inclosed duplicates of the annexes are intended for the archives of the legation.
THILE.

No. 154.

Mr. Bancroft to Mr. Fish.

[Extract.]

No. 177.]

UNITED STATES LEGATION,
Berlin, January 7, 1871. (Received January 30.)

SIR: The new year opens a new era; North Germany disappears and Germany rises into being. To the December address of the North Ger-

man Diet, inviting the King of Prussia to accept the title of Emperor of Germany, offered him by the princes and free cities, the King wisely answered that he would wait for the decision of the people of South Germany, through their respective legislatures. The concurrence of all the legislatures, except Bavaria, has been given. The constitution of the United States of Germany went into effect on New Year's day. There was no ringing of bells, no salvo of artillery, no military parade, no proclamation, and the revolution which makes of United Germany the strongest power on the continent of Europe came in as still and noiselessly as the falling of dew on a summer's afternoon. The German Union has at this moment but four and twenty members, but no one doubts that Bavaria will join within a few days. The young commonwealth comes into being with every wish to maintain the most friendly relations with the United States of America. I am sorry to see that this disposition troubles British statesmen. As signs of the times, I inclose a letter from Earl Russell, of December 19, to the Times, in which he cavils at the Prussians for treating us "as blameless friends," and also an extract from the Times, of December 31, 1870. * * *

The relations between the new empire and Austro-Hungary involve questions of the highest political importance. On the 14th of last month Count Bismarck, through the North German minister at Vienna, announced to Count Beust the impending change in the most conciliatory manner, deduced its rightfulness from the peace of Prague, and opened the way for establishing the most friendly relations between the two powers. I annex Count Bismarck's dispatch to the German minister in Vienna, in German and in English. The answer of Count Beust was awaited with the greatest interest. Now, that it is published, it excites universal satisfaction that the Austrian chancellor, in his dispatch of December 26, to the Austrian minister at Berlin, putting aside all consideration of the peace of Prague, treats the union of Germany, under Prussian lead, as a fact of the first importance in the modern development of Europe.

He gives assurances of the sincerest wish of all influential circles in Austro-Hungary to cultivate the best and most friendly relations with the mighty state whose establishment approaches its completion. He joins the German government in the wish that Germany and Austro-Hungary may extend to one another the hand for the advancement of the welfare and prosperity of both countries. In this he sees a pledge for permanent harmony between the two empires, and for Europe a guarantee of permanent peace. The emperor, he adds, recalling the ennobling recollections which united his dynasty for centuries with the destinies of the German people, promises to cherish the warmest sympathies for the further development of that people, and expresses his unreserved wishes that its new form as a body-politic may give genuine securities for its own happiness and the welfare of the ancient imperial state with which it is in so many ways connected by tradition, language, manners, and laws.

The Pontus question is still talked about, but no one apprehends immediate war, which Russia and Turkey are both desirous to avoid. The Black Sea is the great interior sea of Europe, draining a far larger and more fertile part of its soil, and receiving larger European rivers than the Mediterranean. The only good issue to the present strife must be the declaration that that sea is one in which all the commercial powers of the world have an interest, and which, therefore, must be unreservedly free and open to all. Russia shows no sign whatever of yielding any longer its natural right to fortify its coast, and to maintain ships of

war in the Black Sea. The insinuation of a connivance between Prince Gortchakoff and Count Bismarck is to be rejected; no such connivance existed.

I remain, &c.

GEO. BANCROFT.

[From the London Times of December 21, 1870.]

OUR MILITARY RESOURCES.

To the editor of the Times :

SIR : I share in your anxiety respecting our armed forces, and it seems to me that during the five or six weeks before Parliament meets the public mind could not be more usefully employed than in considering our deficiencies, and, when a conclusion is reached, in asking government to supply our wants by armaments neither superfluous nor inadequate.

We are, unfortunately, a mark for national animosity on many sides. During the South American revolution the United States checked the building and sailing of cruisers to intercept and plunder the trade of Spain and Portugal, according to their own views of their obligations. When remonstrated with for not doing more, they answered that they would allow no interference with their domestic measures. When one notorious cruiser escaped from Birkenhead, during the American civil war, and our government copied the answer of Mr. Secretary Adams, we were immediately told that our repression was designedly and willfully inadequate.

In the same spirit, when arms are, during the present war, imported into France from England, but in much larger quantities from the United States, in conformity in both instances with the law of nations, the Prussian ministers, ambassadors, officers, and soldiers, through whose country supplies of arms were carried to Russia during the Crimean war, and used by Russian soldiers to kill British troops engaged in a European cause—these same Prussians inveigh against us as enemies, and treat the Americans as blameless friends.

From these two instances I infer that the envy and hostility which have pursued every wealthy commercial nation in ancient and modern times are now dogging our steps, and will one of these days burst out into open aggression.

The facility with which Prince Gortchakoff and Count Bismarck threw off the trammels of treaties in their own cause, and upon their own testimony, shows but too clearly how easy it will be to find a pretext for attacking, first, an ally of England, such as Holland or Austria, and then England herself.

We have been subject since 1815 to occasional panics, often causeless and generally excessive. But if we have been affected in former days with unreasonable fear, that is no reason why we should now be buoyed up by extravagant hope—

“ Fear’s elder brother, not so sad ;

“ The merrier fool of the two, but quite as mad.”

Why should we suppose the British Channel impassable to the ships and boats of an enemy ? Is it impossible that a fleet may be required to relieve from danger our fellow-subjects in Jamaica while an expedition is preparing in the Texel for the invasion of England ? Could we send a part of our army to assist an ally while we have so small a force of regular troops and so few thousands of embodied militia ? Why not raise, by ballot if necessary, and embody one hundred thousand militia ? In six months they would be admirable troops. Captain Sherard Osborn holds that a fleet equipped in the Scheldt against us ought to inspire no apprehensions, and at the same time advises us to line our east and north coasts with ships of war. His practical advice proves that he does not feel the security he affects. Lord Derby warns us against “ an essentially retrograde step,” and at the same time assumes that we might possibly be called upon to repel an invasion of one hundred thousand men.

Even were I not an Englishman I should feel what many Germans, many Frenchmen, many citizens of the United States feel—admiration and reverence for a nation which, since 1641, has given her best blood in the cause of liberty ; and since 1688 has furnished a model, often improved and purified, of a state in the enjoyment of civil and religious freedom.

Being a member of that state I feel responsible, as one of the public, to Europe and to the world for its preservation. I compare it with the great overwhelming autocracy, or rather stratocracy, of Russia, where, as I read in your telegram of to-day, “ the Moscow town council having, in their congratulatory address on the Black Sea question, petitioned the Czar to add liberty of the press, tolerance of all religions, and other reforms to the blessings he has conferred upon his subjects, their address has been returned with a reprimand.” I see here what sort of government is prepared for the Turkish provinces now striving to obtain freedom from their own Sultan. I compare our con-

dition again with the efforts which, since 1789, France has made in vain to combine liberty and order. I compare it with the state of Germany, and I ardently wish success to her new institutions, while I have some fear that her liberty may be stifled by a surplus of kings, princes, lords, and squires.

In the midst of these examples I wish to see England made impregnable, with the motto of our volunteers, *defense, not defiance*.

Your obedient servant,

RUSSELL.

[From the London Times of December 31, 1850. Extract from editorial.]

The collateral evils and dangers arising from the war must have convinced the most obstinate believers in a policy of isolation how universally the security of Europe is affected by a conflict between two of its greatest powers. The general sympathy of England with a just cause failed to conciliate the good will of the Prussian government or of the German army and nation. During the Crimean war arms and munitions of war had been freely exported from Prussia to Russia; and recently rifled cannon and ammunition have been furnished to the French in enormous quantities, *not only by private American traders, but by the War Department at Washington*. The North German government has expressly forbidden its consul at New York to interfere with the traffic in arms, and the relations of the confederation with the United States are friendly and even intimate; yet a comparatively insignificant exportation of arms from England to France has served as a pretext for repeated protests. In his first complaint on the subject Count Bernstorff, conscious of the legal weakness of his case, invented a new doctrine of benevolent neutrality which ought, as he contended, to have been observed by England. Lord Granville, in a dispatch equally courteous and conclusive, showed, with little difficulty, that as benevolence to one belligerent could only be exercised at the expense of the other, Count Bernstorff's proposed rule for the conduct of neutrals involved a contradiction in terms; yet the complaint was repeated in stronger language, although the new paradox was retracted; and it was difficult to avoid a suspicion that Count Bismarck had some political reason for displaying coldness to England. The conjecture seemed to be confirmed when, in the middle of November, the Russian government suddenly issued a circular audaciously repudiating a principal clause in the Paris treaty of 1856.

Count Bismarck to Herr von Schweinitz, the North German minister at Vienna.

VERSAILLES, December 14.

The treaties between the North German Confederacy and the South German states, concluded at Versailles with Bavaria and Hesse, and at Berlin with Württemberg, have been so far matured by recent transactions at Berlin as to admit of their being laid before the South German parliaments. Not only a regard for the Prague treaty of peace, in which Prussia and Austro-Hungary embodied their notions respecting the then anticipated development of German affairs, but also the wish to cultivate such relations with a friendly and powerful neighbor as shall be in harmony with our common past as well as with the sentiments and necessities of both peoples, causes me to acquaint the imperial and royal Austro-Hungarian government with the point of view from which the government of His Majesty the King looks upon the reorganization of Germany. In the Prague treaty of August 23, 1866, the supposition is expressed that the German governments south of the Main will form a confederacy which, independent in itself, would be connected by close national ties with the confederacy of the North German states. None of the contracting parties being by this treaty entitled or obliged to prescribe to the sovereign states of Southern Germany how to order their mutual relations, it rested exclusively with these states to fulfill the above supposition. The South German states have omitted realizing the ideas underlying the Prague treaty of peace. They have confined themselves to forming national relations with Northern Germany, and as a first introductory step renewed the Zollverein and the treaties providing for a mutual territorial guarantee. It was beyond human power to foresee that, under the mighty impetus given to German patriotism by an unexpected attack of the French, these arrangements would be completed by the constitutional treaties recently concluded, and by the establishment of a new German confederacy. Northern Germany had no call to hinder or foil a consummation which it had not indeed brought about, but which had its origin in the history and spirit of the nation. Nor does the Austro-Hungarian government, according to your reports, expect or demand that the stipulations of the Prague treaty of peace shall throw difficulties in the way of the prosperous development of the German states. The Austro-Hungarian government regards the pending reorganization of German affairs with the confident

hope that all members of the new confederacy, and especially the King, our most gracious master, are animated by the desire to preserve and promote those friendly relations with the neighboring empire of Austro-Hungary which are equally recommended to both by their common interests and an active literary and commercial intercourse. The allied governments, on their part, confidently expect that their wishes in this respect are shared by the Austro-Hungarian monarchy. The imminent fulfillment of the German national aspirations and requirements will impart a steadiness and safety to the future development of Germany which all Europe, and more particularly our immediate neighbors will, I trust, see not only without apprehension, but also with satisfaction. The unfettered growth of material interests, which bind countries and nations together with so many ties, cannot fail to react beneficially upon our political relations. Germany and Austro-Hungary will, we are convinced, look upon each other with feelings of mutual good-will, and unite for the friendly promotion of each other's welfare and prosperity. As soon as the fundamental treaties of the new confederacy have been ratified by all parties, I shall enable you to communicate them officially to the chancellor of the Austro-Hungarian empire. I request you to read this communication to the chancellor, and to leave a copy of it with him.

I am, &c.,

BISMARCK.

[Translation.]

AUSTRIAN DISPATCH.

The much talked-of dispatch of the chancellor of the empire, Count Benst to Count Wimpffen, the Austrian ambassador at Berlin, (Vienna, December 26, 1870,) is as follows.

The royal Ambassador of Prussia has sent me the repeatedly promised communication of his government in relation to the unification of Germany. Inclosed your excellency will find a copy of the dispatch in question. I was able to inform your excellency in my dispatch of the 5th instant, immediately after the first indications of General von Schweinitz, regarding the expected declaration of the royal Prussian government, what general points we should consider as the leading ones, and as those by which our view was to be governed. Being now in possession of the document, I am able fully to confirm all that I said at that time. This is moreover the case with regard to a point in respect to which, apparently at least, our views do not perfectly coincide with those of the royal Prussian government. In my dispatch of the 5th instant, I could not avoid adverting to the desirableness, according to our view of the case, of avoiding as far as possible any discussion of the peace of Prague, in view of the present interchange of opinion with Prussia and with a view to the object which both parties are equally desirous of accomplishing.

The royal Prussian government thought proper in its communication of the 14th instant to touch upon this question, and although we willingly acknowledge the friendly disposition with which reference was made to the peace of Prague, we consider it better not to make use of the material which is thereby offered for a diffuse explanation, and to adhere to our opinion that it is to the interest of both parties to avoid a discussion of this kind. Indeed, we do not at this moment, consider it desirable for formal interpretations or material legitimate demands to be made a subject of the discussion. We would rather see in the unification of Germany under the leadership of Prussia, an act of historical significance, a fact of the highest importance in the modern development of Europe, and in accordance therewith, form our opinions concerning the relations which are to be founded and strengthened between the Austro-Hungarian monarchy and the new political creation on our borders. From this stand-point it can only afford me high satisfaction, while awaiting the further communications from the royal Prussian government which have been promised, now to state that the sincere wish prevails in all leading circles of Austro-Hungary to maintain the best and most friendly relations with the powerful state whose establishment is now to be completed. This wish is based upon the conviction that an impartial consideration and appreciation of present requirements will have the best and most salutary effect upon both countries, and will unite them in peace and in earnest co-operation for the tasks of the present and future.

In regard to this, the royal Prussian government has only anticipated the expression of our own sentiments, in alluding to our common past, and in expressing the hope that Germany and Austro-Hungary will regard each other with feelings of mutual good will, and that they will aid each other in the promotion of their common welfare and prosperity.

We think that we have every reason to feel confident that a wide field is to be opened at once for the realization of these pleasing expectations, a field in which a community of wishes and of action may become a pledge of permanent harmony for both countries,

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and a guarantee of lasting peace for Europe. The fact must fill us with great satisfaction, however, that these feeling of the people of Austro-Hungary find a sovereign protector and promoter in the person of His Majesty the Emperor and King, our most gracious master. His Majesty will view the sublime memories which connect his dynasty, in the glorious history of centuries, with the destinies of the German people, with the warmest sympathy for the further development of that nation, and with the sincere wish that it may find, in the new form of its political existence, the true guarantees of a happy future, both as regards its own welfare and that of the empire, which is so closely related to it by historical tradition, language, customs, and laws.

Your excellency will bring these remarks to the notice of the royal Prussian secretary of state, and will furnish him with a copy of the same, if he desires it.

Receive, &c.

No. 155.

Mr. Bancroft to Mr. Fish.

No. 178]

LEGATION OF THE UNITED STATES,
Berlin, January 9, 1871. (Received January 31.)

SIR: Your instruction, No. 275, respecting the protection of trade marks has received attention.

The law on this subject for North Germany, henceforth good for all Germany, is contained in the penal code of the North German Union. (*Strafgesetzbuch des norddeutschen Bundes*), a copy of which I forwarded to you on the 3d of October last. Paragraph 287 of this code provides for the protection of trade-marks, in terms of which the following is a translation:

Whoever falsely marks goods or their wrappings with the name or firm (*firma*) of a native manufacturer, producer, or merchant, or knowingly introduces into the market such falsely-marked goods is punishable with a fine of from \$50 to \$1,000, or with imprisonment not to exceed six months. The same penalty accrues when the act is committed against subjects of a foreign state, in which a reciprocal procedure is guaranteed by published treaties, or by the laws.

The penalty is not thereby voided, that the name or firm (*firma*) is reproduced with such alterations as are perceptible only upon very close observation.

It thus appears that the legislation of both countries indicates a like disposition to extend the protection secured to its own citizens to those foreigners also whose governments reciprocate it.

A convention, however, seems necessary to give certainty and effectiveness to the reciprocal protection.

I shall therefore seize the earliest opportune moment to resume the negotiation of such a convention, which, but for the war, would have been already concluded.

A convention now to be concluded will secure to the citizens of the United States protection for the products of their skill throughout Germany.

I remain, &c.,

GEO. BANCROFT.

No. 156.

Mr. Fish to Mr. Bancroft.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 16, 1871.

BANCROFT:

Washburne complains that his dispatches are detained two to three

weeks between London and Paris. This is a poor return for his services in behalf of Germans, many hundreds of whom he is protecting and feeding in Paris. Endeavor to have this wrong remedied. We are entitled to prompt communication with our minister.

FISH.

No. 157.

Mr. Fish to Mr. Bancroft.

No. 281.]

DEPARTMENT OF STATE,
Washington, January 17, 1871.

SIR: I inclose for your information a translation of a note of the 14th instant, from Baron Gerolt, and a copy of my reply of the same date, in regard to the revocation of the declaration made by the government of North Germany at the commencement of the existing war, exempting private property on the high seas from seizure by the cruisers of North Germany.

I am, &c.,

HAMILTON FISH.

[For copies of these inclosures see *post*, correspondence between the Department of State and the German legation in Washington.]

No. 158.

Mr. Bancroft to Mr. Fish.

No. 180.]

AMERICAN LEGATION,
Berlin, January 18, 1871. (Received February 4.)

SIR: Late on the 16th I received from you the following telegram:

Washburne complains that his dispatches are detained two to three weeks between London and Paris. This is a poor return for his services in behalf of Germans, many hundreds of whom he is protecting and feeding in Paris. Endeavor to have this wrong remedied. We are entitled to prompt communication with our minister.

FISH.

WASHINGTON, *January 16.*

I have not suffered this government to remain ignorant of the faithful and self-sacrificing integrity with which Mr. Washburne discharges his duties as guardian of the Germans in Paris and in France. I obtained, yesterday, an interview with the Secretary of State. So far from knowing anything of any interruption of the correspondence of Mr. Washburne, he testified, on the part of the German government, the greatest readiness and disposition to forward it, and knew nothing of any delays on the German side. On the contrary, every wish exists on the part of this government to make Mr. Washburne's residence in Paris as comfortable as possible. It has also been established by Count Bismarck that any American in Paris may at any time, under proper authentication from Mr. Washburne, come out of Paris. For explanation of the interruption alluded to by you in the telegram, I am left to a conjecture, aided by what has appeared in the public journals. The French press in Paris complains bitterly that Mr. Washburne alone receives news-

papers and communications from abroad, and the complaint, when analyzed, resolves itself into this, that the papers and communications which Mr. Washburne receives give no account of French victories. The same journals complain bitterly against the Government of the United States that it has not interposed effectively in favor of France. There have also been times when intercourse between Paris and Versailles by flags of truce has been capriciously interrupted by the government in Paris.

I will continue inquiry, and will not fail to make a proper representation to this government, should the grievance from which Mr. Washburne suffers be found to proceed from the German side; but I have no doubt that the difficulty has arisen in another quarter.

You may see in the papers a report of terms which Austria is said to propose, mediatorially, as conditions of peace between France and Germany. You may be perfectly certain that this rumor has no foundation in truth. It is a mere fiction of the stock exchange.

Bavaria still lingers outside of the German Federal Union, but no one doubts that within a very few days she will be the twenty-fifth of the United States of Germany.

I remain, &c., &c.,

GEO. BANCROFT.

No. 159.

Mr. Bancroft to Mr. Fish.

[Extract.]

No. 183.]

AMERICAN LEGATION,
Berlin, January 21, 1871. (Received February 11.)

SIR: I inclose to you to-day the original of a letter which I have received from Count Bismarck, replying to your note of November 21 to Baron Gerolt, and also a translation of the same. I have this day received from Mr. Washburne a letter dated January 16, and I am more and more convinced that no obstacle is opposed by the German government to delay the transmission of your correspondence with our minister at Paris.

I remain, &c.,

GEO. BANCROFT.

[Translation.]

Mr. Bismarck to Mr. Bancroft.

VERSAILLES, January 16, 1871.

The undersigned, chancellor of the confederation, has received the note which the Secretary of State of the United States of America, on the 21st of November last, addressed to the envoy of the North German Confederation, Baron Gerolt, in reply to the communication made by the latter respecting the intercourse with their Government of the members of the diplomatic corps remaining in Paris. The Secretary of State claims for the representatives of all neutral powers in Paris the right of free written intercourse with their governments, on the ground that such intercourse is in itself one of the privileges of envoys, and that the communication of Baron Gerolt failed to convince the Government of the United States that the special circumstances in the case of Paris justified an exception.

As we have, in fact, forwarded Mr. Washburne's dispatches both ways, the question has a theoretical significance only. The undersigned has nevertheless made the note

of the 21st of November the subject of careful consideration, and regrets that he has not been able to arrive at the same conclusion. The right of unhindered written intercourse between a government and its diplomatic representative, especially so far as concerns the government to which he is accredited, is in itself undisputed. But this right may come in conflict with rights which of themselves are also beyond dispute; as for instance in the case where a State, to guard against contagious disease, subjects travelers and papers to a quarantine. So, too, in war. The universal and imperative right of self-protection, of which war is itself the expression, may come in conflict with the diplomatic privileges, which, just because privileges, are, in doubtful case, subject not to an enlarging, but to a contracting interpretation. A precedent where a government has transformed its permanent seat into a strong fortress, and has in consequence been exposed, with the envoys accredited to it, to a long siege is certainly not to be found, so far as known, in modern history, nor can indeed it well occur, since Paris is, of modern capitals, the only fortress; and, in earlier times, when every city was fortified, and sieges of cities in which a government had its seat could occur more frequently, standing embassies were not yet established.

If the writers on public law concede to the diplomatic representatives of neutral states, rights as against a belligerent power, they do so only while, at the same time coupling therewith the right to regulate the correspondence of such persons with a besieged town, according to military exigencies. Vattel says:

“ Elle (la guerre) permet d'ôter à l'ennemi toutes ses ressources, d'empêcher qu'il ne puisse envoyer ses ministres pour solliciter des secours. Il est même des occasions où l'on peut refuser le passage aux ministres des nations neutres qui voudraient aller chez l'ennemi. On n'est point obligé de souffrir qu'ils lui portent peut-être des avis salutaires, qu'ils aillent concerter avec lui les moyens de l'assister, etc. Cela ne souffre nul doute par exemple, dans le cas d'une ville assiégée. *Aucun droit ne peut autoriser le ministre d'une puissance neutre ni qui que ce soit à y entrer malgré l'assiégé, mais pour ne point offenser les souverains, il faut leur donner de bonnes raisons du refus que l'on fait de laisser passer leurs ministres, et ils doivent s'en contenter s'ils prétendent demeurer neutres.*”

What is true of ministers will be all the more so of messengers and dispatches. Other authorities go still further. Merlin, cited with assent by Wheaton, makes the privileges of a minister, who in time of peace passes through the territory of a third state, subject to the consent of the latter to the transit. Without this permission, express or by acquiescence, the minister is to be regarded as an ordinary traveler. The military necessity of cutting off a besieged town from outside intelligence appears a sufficient ground for subjecting to control, in a military point of view, the correspondence of diplomatic persons remaining in the town in its transit through territory occupied by the besiegers, and temporarily subject to their war sovereignty. It is not perceived that these persons are thereby treated as enemies, nor that they are thereby prevented from continuing neutral, nor that wars are thereby indefinitely prolonged.

On the contrary, the end of a war is all the sooner to be expected the more strictly the isolation of the hostile capital is carried out. Its termination would be indefinitely distant if every one of the diplomatic persons in a besieged capital, and their number may be very considerable, could require that so often as he had to send a communication to his government, or expected one from it, the activity of the besiegers should be stayed.

The undersigned requests the envoy extraordinary and minister plenipotentiary of the United States, Mr. George Bancroft, to acquaint his Government with this communication, and takes occasion to renew to him the assurance of his most distinguished consideration.

VON BISMARCK.

No. 160.

Mr. Bancroft to Mr. Fish.

No. 186.]

AMERICAN LEGATION,

Berlin, February 1, 1871. (Received February 28.)

SIR: The capitulation of Paris will, it is here universally believed, lead to the establishment of peace. The terms will include Metz. Germany is determined to rely for its security against future aggression from France on a safe military line of defense. If it obtains the boundary which it requires, peace between the two peoples can hardly be broken for a century. The minister from Switzerland tells me to-day

that eighty thousand of the troops of Bourbaki have escaped from before the Germans into the neutral territory of Switzerland. This is the fourth French army that has been brought to ruin since the capture of the late Emperor at Sedan, and military power, and with it military influence, are now so completely crushed in France that the constituent assembly which is to be convened at Bordeaux will, in proceeding to form a new constitution, be entirely free from the control or influence of the army.

In that convention I cannot but hope that the late anti-republican usurpation will receive its proper rebuke, and that the more reasonable and better instructed statesmen of France may assist to found a republic on principles analogous to our own.

With regard to Germany, present appearances indicate that, after the close of this war, it will devote itself exclusively to the employments of peace. Compared with the great objects of this war, which involved the question of national existence, all conceivable causes for a future war will appear trivial and indifferent. This war has carried sorrow into almost every family, alike into the houses of that class from which the officers are chiefly taken, and those of the poor. Two hundred of the students of Königsberg University are serving for the most part in the ranks, and the other universities have contributed to the army in the same proportion, so that for the future no motive to war that is likely to occur can seem worthy of a repetition of equal sacrifices.

Indeed, people of every degree long for peace, and long for its continuance. I am, therefore, of the opinion that Germany in the coming years will devote its immense energies to the improvement of its laws, the establishment of its liberties, and the development of its great resources.

The relations between our own country and the new empire are happily those of reciprocal good will and amity. The heart of the German people at the beginning of the war turned with affectionate confidence toward America. This warmth of feeling was somewhat chilled by the exportations of the munitions of war from America to France, but the minister here has been just to our government, knowing well the condition of our laws and our treaty stipulations with Prussia in regard to traffic in contraband articles of war, established on our part by Franklin, John Adams, and Jefferson, in the days of Frederick the Great, and renewed by John Quincy Adams, and again by Henry Clay, during the reign of the father of the present King, and continued in force to the present day.

I remain, &c.,

GEO. BANCROFT.

No. 161.

Mr. Bancroft to Mr. Fish.

No. 188.]

AMERICAN LEGATION,
Berlin, February 6, 1871. (Received March 3.)

SIR: I have not failed to continue the inquiries made proper by your telegram of January 16, respecting the interruptions to the communication of Mr. Washburne with his Government. I receive the most unequivocal assertions here at each of the departments of the ministry of the willingness and desire for the prompt transmission of Mr. Washburne's

pouch from London to Paris. I observed in the columns of a late French newspaper, published in Paris, the assertion as of a well-known fact, that Mr. Washburne received his dispatches, letters, and newspapers, &c., once a week. My own letters to him appear to have reached him regularly except on one single occasion. The note of Count Bismarck, of January 15, which I lately forwarded to you, states unequivocally that Mr. Washburne's intercourse with the Government is free and uninterrupted. I have heard of no delay but on one occasion; but the unvarying declarations of this government from all its departments preclude the idea that the delay was intentional on their part. The government here has been kept fully informed of the manner in which Mr. Washburne has discharged his duties as protector of the Germans, and has uniformly expressed to me its warm and grateful sense of his assiduousness and fidelity.

I remain, &c.,

GEO. BANCROFT.

No. 162.

Mr. Bancroft to Mr. Fish.

No. 189.]

AMERICAN LEGATION,
Berlin, February 6, 1871. (Received March 3.)

SIR: I have received your No. 281 of January 17, and its inclosures. I share your regret that this government should have revoked its declaration exempting private property on the high seas from seizure, but American navigation has very little to apprehend from that revocation, for this government is bound by the principle that free ships make free goods, so that French property on board American ships, unless contraband of war, will remain perfectly safe. As it regards contraband of war, this government is fully aware of the stipulations with regard to it made originally with the full approval of Frederick the Great by John Adams, Franklin, and Jefferson, on our part, renewed in 1799, in a treaty signed by John Quincy Adams, and indefinitely continued by the treaty negotiated by Henry Clay. I am, therefore, persuaded that everything will be carefully avoided which could give us ground of complaint. Indeed, it may be a question whether the revocation of the declaration does in any way affect the navigation of the United States, since the declaration neither revoked nor impaired the treaty obligations of the two countries. Meantime Paris has surrendered, and the protocol and convention of surrender, of which I inclose official copies, partake of the character of a political national act. All accounts that are received here tend to confirm the general opinion that this convention, made with the government of the national defense at Paris, will be followed by peace.

Pray give no credence to the conditions of peace reported in English newspapers, under the real or pretended authority of telegrams. They are in many respects purely fictitious. But so far as relates to a cession of territory, I inclose to you a map published by the German post-office department, and which, therefore, may be regarded in some measure as authentic and official. The part of Alsace and Lorraine of which it appears the cession will be required, is marked on the Swiss side with a line of blue, on the French side by a line of blue and red. The cession is one which it will be very hard, if not impossible, for the French to

make. The Germans plead that, square mile for square mile, the territory to be ceded is exactly of the same extent as that which France, in 1859, required from Italy, so that, as to square miles, France would be of exactly the same contents as by the treaty of 1815. With regard to Metz, I hear it sometimes said that Luxemburg was the proper defense of Germany on that side against France; that so late as 1867, Germany, rather than engage in a war with France, consented to give up that fortress and retire from Luxemburg, surrendering a German territory, in old times a part of the empire, and since 1815 a part of the German Union, entirely to the King of Holland. I do not suffer myself to express any opinions on these questions, and hardly to form any. My object is simply to keep the Department accurately informed on questions as they arise.

I remain, &c.,

GEO. BANCROFT.

No. 163.

Mr. Bancroft to Mr. Fish.

No. 195.]

AMERICAN LEGATION,

Berlin, February 23, 1871. (Received March 15.)

SIR: The expectation of immediate peace continues, though the moment of decision is awaited not without anxiety, and troops are still going forward that every contingency may be provided for. The progress of the negotiations will reach you by way of London sooner than I can report it, even by telegraph from Berlin. To understand the condition of France, it is only necessary to note the course of military events by which Gambetta hoped in the month of January to establish his dictatorship. General Roze with his army, supported by troops from Havre, was to drive the Germans from Rouen. General Faidherbe was to cut the connections of the Germans in the Northeast and East. Bourbaki and Garibaldi were, by menacing Belfort, to attract the forces under Prince Frederick Charles; and so the way was to be left open for General Chanzy from Maas to relieve Paris. But General Roze was beaten back with a loss of 12,000, taken prisoners; General Faidherbe, with a like loss of 11,000; Chanzy, 24,000; Bourbaki, 30,000, and more than 80,000 driven into Switzerland. In killed and wounded the loss of these armies, with those who fell in the sorties from Paris, amounted to 41,000; so that, apart from the losses of Garibaldi and the franc-tireurs, France suffered a loss of its active men in the field of about 200,000 outside of Paris, in the month of January alone. Add to this 150,000 troops that surrendered at the capitulation of Paris, without counting the national guard; and it appears that the effective force of France was in the month of January diminished by at least 350,000 men. The loss of the Germans to be set against this was about 10,000.

In this way the dictatorship of Gambetta came to an end, and France was driven to the necessity of making conditions of peace which almost seem like a capitulation. Your instructions to No. 293 (except 237) have been received.

I remain, &c.,

GEO. BANCROFT.

No. 164.

Mr. Fish to Mr. Bancroft.

No. 296.]

DEPARTMENT OF STATE,

Washington, February 24, 1871.

SIR: I have received your No. 183 of the 21st ultimo, accompanied by the original of a letter from Count Bismarck replying to my note of November 21 to Baron Gerolt, and also a translation of the same. I am happy to think that the question discussed in my note, and in Count Bismarck's reply, is no longer one of practical application to any probable occurrences. It is therefore quite unnecessary to consider whether the approach of a hostile force, and its military preparations for the capture of a city which has been for ages the seat of government and the capital of the country, where the political head of that country is and has been established, where its minister of foreign affairs has his office and his archives, where the representatives of other powers have been and are resident, can so convert that city into a military fortress as to apply to it the rules of war applicable to fortresses as distinguished from other towns. Or whether such approach and military demonstrations of a hostile force impose upon the diplomatic representatives of other and neutral states the alternative of abandoning their posts and their duties, or of privation of the right of free and uninterrupted correspondence with their government, which public law, no less than international comity, accords in the interest of peace. I inclose herewith copies of a correspondence between Mr. Washburne and Count Bismarck on the subject of the transmission of Mr. Washburne's dispatches. You will observe that in this correspondence Count Bismarck, under date of January 15, admits that the delay to which the transmission of the correspondence of this Government with its minister in Paris was subjected depended upon the principle adopted by the general staff of the German army, allowing no sealed packages or letters to pass through their lines in either direction without a stoppage of several days, and he cautiously disclaims one act of immediate transmission being taken as a precedent. The President desires to make all proper allowance for the military exigencies which are represented to have led to the withholding and detaining of the official correspondence of the minister, and is gratified to receive the recognition in Count Bismarck's letter of 28th January to Mr. Washburne of the right of correspondence contended for in my note to Baron Gerolt of 21st November last, and his assurance that the delay to which it was subjected proceeded from causes which he could not remove.

Recent events, it is confidently hoped, have removed the probability of any recurrence of the interruption of free correspondence. And Count Bismarck's assurance to Mr. Washburne that "the delay occurring now and then in the transmission of your dispatch-bag is not occasioned by any doubt as to the right of your Government to correspond with you, but by obstacles it was out of my power to remove," confirms this Government in its confidence of an entire agreement between it and North Germany on the question of the right and the inviolability of correspondence between a government and its representative, and of the absence of any intentional interference with that right in the case of its minister to Paris. I send, herewith, a copy of a dispatch of this date to Mr. Washburne.

As Count Bismarck's recognition of the right for which I contended in my note to Baron Gerolt is subsequent to his letter to you of 15th

January, and admits what I felt it my duty to claim, there does not appear to be any necessity for continuing the discussion, unless the subject be again referred to by the German minister, in which case you are authorized to read to him this dispatch.

I am, &c.,

HAMILTON FISH.

(For inclosures see correspondence with United States Legation, Paris.)

No. 165.

Mr. Bancroft to Mr. Fish.

No. 197.]

AMERICAN LEGATION,
Berlin, February 27, 1871. (Received March 20.)

SIR: The telegraph will have brought you news of the preliminaries of peace between France and Germany, signed last Sunday evening, on the basis of the cession to Germany of Alsace without Belfort, and of German Lorraine, with Metz, together with an indemnity for war expenses of 5,000,000,000 francs.

The fortress of Belfort commands the pass south of the Vosgian mountains into central France. To a German power desirous of offensive war against France, its possession would be of the greatest value, since it would open the way at once to the richest parts of Burgundy. As a defensive position for Germany, it is of less importance. True, therefore, to the principle of demanding no territory except what is necessary for defensive purposes, Germany has very wisely restored Belfort to France. That city is essentially French, and has been so for ages. The fortress of Metz is retained by Germany, because the German military authorities insist upon it as essential for the line of defense, but the position was of so much importance to France, for its own protection, that its cession could hardly have been claimed had not Germany, four years ago, been compelled by France to give up the fortress of Luxemburg.

The pecuniary indemnity demanded will weigh very heavily on France, for the money is to be raised and paid in three years, and the war has given to the credit of France a shock from which it cannot soon recover. The council of the German Empire, which most nearly resembles our Senate, is now assembled in Berlin, collecting here a large body of the most distinguished statesmen of the empire. The time for the opening of the first diet of renovated Germany is fixed for the 16th of March. The Emperor is expected to return sooner. It is said of him that he feels very deeply the loss of so many brave officers and men in the war; that he will return to his capital as quietly as possible, and that instead of exultations for victory, one of his first acts will be to propose a public mourning of the whole land. When that is over, and when most of the army is recalled, there may be a triumphal march into Berlin, in which the Emperor will take part.

The Emperor has probably before now announced to the President his increased dignity and jurisdiction. If so, I shall hope very soon to receive the President's letter in reply.

I remain, &c., &c.,

GEO. BANCROFT.

No. 166.

Mr. Bancroft to Mr. Fish.

No. 206.]

AMERICAN LEGATION,
Berlin, March 22, 1871. (Received April 12, 1871.)

SIR: Before leaving Versailles the Emperor of Germany addressed a letter to the President of the United States, informing him of the new title which he had assumed on the occasion of the union of the Southern German States with the Northern. The German minister at Washington was also instructed to communicate to the President the cordial response of the German government to the words of sympathy in which the President announced to Congress the union of Germany. To this I can add that the state paper has attracted attention from one end of Europe to the other, and that I am constantly receiving evidences of the satisfaction which it has excited in every class of Germany, from extreme liberals to extreme conservatives. The new empire contains a little more than forty millions of people, who are almost exclusively of one nationality; even in the new provinces of Alsace and Lorraine 1,350,000 are Germans, and only about 300,000 are of French descent. In Posen, in the eastern part of the empire, a majority of the people are Polish; and about half a million of Jews are scattered through the country, but these all speak the German language and have for centuries been resident in Germany.

This unity of nationality already gives evidence that it will control the policy of the empire. It is held in memory that in centuries long gone by the German Emperor professed to be the successor of the Roman, and as such was constantly involved in foreign, especially Italian, wars, to the ruin of the country. No plans of future conquest are now cherished, but, instead of it, the culture and development of the homogeneous population are the great ends which are proposed. The unity of nationality shows itself already as a guarantee of a policy of peace. I have met no one who wants territory occupied by men of another race and language. Another guarantee of peace is the character of the army, composed as it is of the people, and, as with us, disinclined to any war except for self-defense. Still another guarantee is found in the federal constitution of the empire, the several governments having reserved to themselves the right of being consulted before war can be declared.

The President in his message to Congress expressed his confidence that the body which represents the people would be marked by a love of liberty, and it has proved so. The Grand Duchy of Baden is entitled to twelve representatives in the German Diet, and, though the majority of the people of Baden are Catholics, the national party has elected ten of the representatives, the ultramontanes only two. The victory of the liberal national party in Wurtemberg is still more remarkable. Three years ago it did not elect to the German customs parliament one single national member, while in the present election, out of seventeen to which Wurtemberg is entitled, all are national and liberal except two. Bavaria was looked upon by the ultramontanes as their stronghold, and in Bavaria, where the Catholics compared with the Protestants, are as five to two, the ultramontanes and the separatists combined are left in a decided minority. Thus South Germany comes into the German Parliament with all of its states on the side of union, and with a great majority for the development of the country on the principle of freedom. Yesterday the Parliament of Germany had its first sitting. The day

began with divine service in the royal chapel, after which the speech of the Emperor was delivered in a large hall in the palace to the members of the two houses of Parliament, of whom nearly every one seemed to be present. It was addressed to them as the representatives of the German people, who have at last attained to consciousness of life and unity; and the object of the constitution was declared to be the protection of justice in Germany and the fostering of the welfare of the German people. Next to the recognition of the union of Germany as the result of the efforts of the nation, the most remarkable point in the speech is the pledge which it gives for the maintenance of peace, for respect for the rights of all other powers, whether strong or weak, and for emulation in the victories of peace. Before the day closed the Emperor, as King of Prussia, not as Emperor of Germany, raised Count Bismarck to the rank of prince.

I remain, &c., &c.,

GEO. BANCROFT.

No. 167.

Mr. Bancroft to Mr. Fish.

No. 211.]

AMERICAN LEGATION,

Berlin, April 8, 1871. (Received April 27.)

SIR: This afternoon I delivered to the Emperor the President's letter of March 16 congratulating him on attaining the dignity which makes him the representative of German Union, and expressing the cordial good wishes of the United States for the most friendly relations with Germany. With reference to his new position he said: "I have neither sought for it, nor expected it, nor desired it. The movement that was manifest in the history of a long period of years could not be unobserved; but I had no thought that the end would be attained unless it might be in the time of my son or of my grandson."

With respect to the United States, the Emperor most cordially reciprocated the good feeling which the President had expressed; and as all the world gives him credit for being a man of his word, the President may be certain that the declaration was made with deliberation and sincerity. He expressed particularly his wish that the two nations might continue to cultivate mutually those good and friendly feelings which have been so apparent ever since Germany began to unite itself anew.

His expressions to me personally were as friendly as possible.

I remain, &c., &c.,

GEO. BANCROFT.

No. 168.

Mr. Fish to Mr. Bancroft.

No. 319.]

DEPARTMENT OF STATE,

Washington, April 17, 1871.

SIR: I have received, and perused with much interest, your dispatch of the 22d ultimo, No. 206.

Your statement in regard to effect produced in Germany by the message of the President to Congress announcing the union of South

with North Germany is very gratifying, and your sketch of the organization and policy of united Germany and the progress of liberal political views in the states composing the new German empire, together with your account of the speech of the Emperor at the first sitting of the parliament of Germany, are equally so.

I am, &c.,

HAMILTON FISH.

No. 169.

Mr. Bancroft to Mr. Fish.

[Extract.]

No. 212.]

AMERICAN LEGATION,

April 10, 1871. (Received April 27.)

SIR: The session of the German Diet has thus far been marked by moderation and love of peace. The Pope, since the loss of his temporal dominions, feels himself ill at ease in the Vatican; and the suggestion was made by his friends here that he would seek refuge in Germany. To an informal inquiry the informal answer was given that the Pope would receive in Germany the protection and hospitality which the laws award, in the same degree as the late King of Naples; but that the exercise of his functions could take place on German soil only after the enactment of a law. The clerical party in the diet desire very much that the Emperor should claim for the Pope the restoration of his temporal power. In an address to the Emperor the diet expressed themselves, in a vote of 243 against 63, in general terms against any such measure, and against any intermeddling with foreign powers; and the Emperor, in his reply, assured them that they had rightly interpreted his speech at the opening of the session as declaring the policy of non-intervention.

In Bavaria a great division has arisen among the Catholics themselves. The Archbishop of Munich having required Döllinger to accept, within a limited time, the dogma of the Pope's infallibility, Döllinger replied, in an admirably written paper, by denying the dogma altogether. The great majority of the Catholic professors of Munich adhere to his exposition. He enjoys the confidence and protection of his King, so that there are materials there for a schism such as have not shown themselves in a Catholic kingdom since the time of Henry the Eighth of England.

The new acquisition in Alsace and Lorraine is promised a liberal administration and liberal institutions.

The people of Brunswick, which State, on the death of the present ruling prince, will fall to the King of Prussia, are taking measures, after the American principle, to preserve a government of their own for domestic legislation.

For Roumania the *status quo* is approved by this government, and the ministry is looked upon as the best that can at present be selected, and the reigning prince, who is inclined to abdicate, is advised to remain.

As to France, the German Empire is resolved to keep faith with the government with which it negotiated peace, and it seeks to stand aloof from all internal questions in France.

I am, &c.,

GEO. BANCROFT.

No. 170.

Mr. Bancroft to Mr. Fish.

No. 218.]

AMERICAN LEGATION,
Berlin, April 25, 1871. (Received May 9.)

SIR: I have heretofore informed the Department that the most remarkable antagonism now existing in Germany relates to the constitution of the first house of the German Parliament. That house, as at present constituted, is appointed by the executive authority of each one of the twenty-five States of Germany; its votes are given as in the old Congress of the United States, not by individuals as such, but by States. An aristocratic party desires to establish a first house that shall be more analogous to the British House of Lords. On the 19th of this month, Prince Bismarck, incidentally in a speech in the diet, declared himself entirely opposed to a house of lords, and spoke in the warmest terms of eulogy of the first house, as at present constituted, as being a most "happily devised senate." A hereditary house, he said, could not furnish an adequate counterpoise or protection against the dangers which might spring from universal suffrage in its fullest exercise of its powers; but the vote of a state he described as the resultant of all the forces contained in the state, the vote of the executive modified by the legislature and the responsible ministry of the individual state. "The sovereignty," he said, "does not belong to the Emperor, but to the totality of the united government;" and in this senate the wisdom, the intelligence of each one of the five and twenty governments, can make itself heard, can contribute its part toward the complete enlightenment of the whole body. "Therefore," said he, "I would beg of you not to touch the council of the union with an unfriendly hand. I see a sort of palladium for our future, a guarantee for the future of Germany, in this form of organization."

The speech of Prince Bismarck confirms the conclusion to which I had come from my own observations—that in the Empire of Germany a house of peers is no longer possible, and that the American idea that no legislative office should be hereditary has established itself too firmly to be overthrown.

With regard to the manner in which the members of the first house are chosen, the method that has been adopted is the best that can, as yet, be practiced. In many of the separate states of Germany, there exists a first house in which the hereditary aristocracy is strongly represented. We choose our Senators by the concurrent or the joint vote of the two houses of the legislature; in Germany, the two houses would be perpetually at variance in their selections, and a joint ballot of two houses, one of which represents in part at least a hereditary aristocracy, could not well be taken.

The popular branch in each state might elect a more liberal council; the other branch, most certainly, a less liberal one. Thus in a conflict between a first house, after the British fashion of a house of lords, and a senate after the pattern of the American Senate, the latter has won in Germany the definitive victory. The British system finds so feeble a support that the proposition for its adoption is not likely to revive.

I add, for your information and for the consolation of statesmen who sometimes do not see their way clearly through difficulties, that, in 1862, the present Emperor, being then King of Prussia, caused a paper for his formal abdication to be prepared, and he set his signature to it.

The interposition of his advisers prevented the consummation of the act by delivery.

I remain, &c., &c.,

GEO. BANCROFT.

No. 171.

Mr. Bancroft to Mr. Fish.

No. 221.]

AMERICAN LEGATION,

Berlin, May 6, 1871. (Received May 23.)

SIR: I inclose to you to-day a copy of the constitution of Germany, as reported to the diet, and as adopted without change.

A bill is now pending in the Parliament fixing the rate of payment to the members of the diet for their legislative services, and their traveling expenses in coming to and returning from the place of session. The pay proposed to be fixed is prospective; not to be received until a new Parliament is chosen. The per diem allowance is three thalers, or \$2 16 of our money. The average length of the annual session has not been more than sixty days. The number of the members of the diet is three hundred and eighty-two; the pay of the members for the year would, therefore, amount to \$49,507 20. The amount allowed for traveling expenses is the fare in a second-class carriage from the nearest station to Berlin and back again. I have taken some pains to get at the average which the members would receive, and I find it to be in our money, \$6 12 each way; each member, therefore, would receive \$12 24 for traveling expenses, and the whole amount would be \$4,675 68.

German statesmen are already studying the constitution of our Supreme Court of the United States, and the wish is already heard that a like institution may find a place in Germany.

I am, &c.,

GEO. BANCROFT.

No. 4.

GERMAN DIET, FIRST LEGISLATIVE PERIOD, FIRST SESSION, 1871.

BERLIN, March 21, 1871.

In the name of His Majesty the Emperor, the undersigned, chancellor of the empire, has the honor to submit to the diet, for its action, the annexed plan of a law regarding the constitution of the German Empire as it has been adopted by the Federal Council.

V. BISMARCK.

To the DIET.

Law regarding the constitution of the German Empire.

We, William, by the grace of God German Emperor, King of Prussia, &c., do hereby order, in the name of the German Empire, with the consent of the federal council and the diet, as follows:

§ 1. Instead of the constitution of the Germanic Confederation adopted by the North German Union and the Grand Duchies of Baden and Hesse, (Bundesgesetzblatt für 1870, p. 627, *et seq.*) and instead of the treaties concluded with the kingdoms of Bavaria and Wurtemberg with regard to their adoption of this constitution, said treaties bearing date November 23 and 26, 1870, (Bundesgesetzblatt of the year 1871, p. 9, *et seq.*, and of the year 1870, p. 654, *et seq.*) the following constitution for the German Empire is adopted:

SEC. 2. The provisions of article 80 of the constitution of the Germanic Confederation mentioned in section 1, (*Bundesgesetzblatt* of the year 1870, p. 647,) under III section 8 of the treaty with Bavaria, of November 23, 1870, (*Bundesgesetzblatt* of the year 1871, p. 21, *seq.*) in article 2, No. 6, of the treaty with Würtemberg, of November 25, 1870, (*Bundesgesetzblatt* of the year 1870, p. 656,) in relation to the adoption of the laws of the North German Union in these states, remain in force.

The laws therein referred to are laws of the Empire. Where reference is made in them to the North German Union, its constitution, territory, members or states, citizenship, constitutional organs, citizens, officers, flag, &c., the German Empire and its respective belongings are to be understood.

The case is the same with regard to such laws of the North German Union as shall hereafter be adopted in any of the aforesaid states.

The agreements in the protocol adopted at Versailles on the 15th of November, 1870, (*Bundesgesetzblatt* for 1870, p. 657,) in the final protocol of November 23, 1870, (*Bundesgesetzblatt* for 1871, p. 23, *seq.*), as well as those under IV of the treaty with Bavaria, of November 23, 1870, shall not be affected by the present law.

In witness, &c.

Done, &c.

CONSTITUTION OF THE GERMAN EMPIRE.

His Majesty the King of Prussia, in the name of the North German Union, His Majesty the King of Bavaria, His Majesty the King of Würtemberg, His Royal Highness the Grand Duke of Baden, and His Royal Highness the Grand Duke of Hesse, and by Rhine for those parts of the Grand Duchy of Hesse which are situated south of the Main, conclude an eternal alliance for the protection of the territory of the confederation, and of the laws of the same, as well as for the promotion of the welfare of the German people.

This confederation shall bear the name of the German Empire, and shall have the following constitution.

I.—TERRITORY.

ARTICLE 1. The territory of the confederation shall consist of the States of Prussia, with Lauenburg, Bavaria, Saxony, Würtemberg, Baden, Hesse, Mecklenburg-Schwerin, Saxe-Weimar, Mecklenburg-Strelitz, Oldenburg, Brunswick, Saxe-Meiningen, Saxe-Altenburg, Saxe-Coburg-Gotha, Anhalt, Schwarzburg-Rudolstadt, Schwarzburg-Sondershausen, Waldeck, Reuss of the elder branch, Reuss of the younger branch, Schaumburg-Lippe, Lippe, Lubeck, Bremen, and Hamburg.

II.—LEGISLATION OF THE EMPIRE.

ARTICLE 2. Within this territory the empire shall have the right of legislation according to the provisions of this constitution, and the laws of the Empire shall take precedence of those of each individual state. The laws of the Empire shall be rendered binding by imperial proclamation, such proclamation to be published in a journal devoted to the publication of the laws of the empire, (*Reichsgesetzblatt*.) If no other period shall be designated in the published law for it to take effect, it shall take effect on the fourteenth day after the day of its publication in the law-journal at Berlin.

ARTICLE 3. There is one citizenship for all Germany, and the citizens or subjects of each state of the federation shall be treated in every other state thereof as natives, and shall have the right of becoming permanent residents, of carrying on business, of filling public offices, and may acquire all civil rights on the same conditions as those born in the state, and shall also have the same usage as regards civil prosecutions and the protection of the laws.

No German shall be limited, in the exercise of this privilege, by the authorities of his native state, or by the authorities of any other state of the confederation.

The regulations governing the care of paupers, and their admission into the various parishes, are not affected by the principle enunciated in the first paragraph.

In like manner those treaties shall remain in force which have been concluded between the various states of the federation in relation to the custody of persons who are to be banished, the care of sick, and the burial of deceased citizens.

With regard to the rendering of military service to the various states, the necessary laws will be passed hereafter.

All Germans in foreign countries shall have equal claims upon the protection of the Empire.

ARTICLE 4. The following matters shall be under the supervision of the Empire and its legislature:

1. The privilege of carrying on trade in more than one place; domestic affairs and matters relating to the settlement of natives of one state in the territory of another;

the right of citizenship; the issuing and examination of passports; surveillance of foreigners and of manufactures, together with insurance business, so far as these matters are not already provided for by article 3 of this constitution, (in Bavaria, however, exclusive of domestic affairs and matters relating to the settlement of natives of one state in the territory of another;) and likewise matters relating to colonization and emigration to foreign countries.

2. Legislation concerning customs duties and commerce, and such imposts as are to be applied to the uses of the empire.

3. Regulation of weights and measures of the coinage, together with the emission of funded and unfunded paper money.

4. Banking regulations in general.

5. Patents for inventions.

6. The protection of literary property.

7. The organization of a general system or protection for German trade in foreign countries; of German navigation, and of the German flag on the high seas; likewise the organization of a general consular representation of the empire.

8. Railway matters, (subject in Bavaria to the provisions of article 46,) and the construction of means of communication by land and water for the purposes of home defense and of general commerce.

9. Rafting and navigation upon those waters which are common to several States, and the condition of such waters, as likewise river and other water dues.

10. Postal and telegraphic affairs; but in Bavaria and Hungary these shall be subject to the provisions of article 52.

11. Regulations concerning the execution of judicial sentences in civil matters, and the fulfillment of requisitions in general.

12. The authentication of public documents.

13. General legislation regarding the law of obligations, criminal law, commercial law, and the law of exchange; likewise judicial proceedings.

14. The imperial army and navy.

15. The surveillance of the medical and veterinary professions.

16. The press, trades' unions, &c.

ARTICLE 5. The legislative power of the empire shall be exercised by the federal council and the diet. A majority of the votes of both houses shall be necessary and sufficient for the passage of a law.

When a law is proposed in relation to the army or navy, or to the imposts specified in article 35, the vote of the presiding officer shall decide; in case of a difference of opinion in the federal council, if said vote shall be in favor of the retention of the existing arrangements.

I.—FEDERAL COUNCIL.

ARTICLE 6. The federal council shall consist of the representatives of the states of the confederation, among whom the votes shall be divided in such a manner that Prussia, including the former votes of Hanover, the electorate of Hesse, Holstein, Nassau, and Frankfurt shall have 17 votes; Bavaria, 6 votes; Saxony, 4 votes. Würtemberg, 4 votes; Baden, 3 votes; Hesse, 3 votes; Mecklenburg-Schwerin, 2 votes, Saxe-Weimar, 1 vote; Mecklenburg-Strelitz, 1 vote; Oldenburg, 1 vote; Brunswick, 2 votes; Saxe-Meiningen, 1 vote; Saxe-Altenburg, 1 vote; Saxe-Coburg-Gotha, 1 vote; Anhalt, 1 vote; Schwarzburg-Rudolstadt, 1 vote; Schwarzburg-Sondershausen, 1 vote; Waldeck, 1 vote; Reuss, elder branch, 1 vote; Reuss, younger branch, 1 vote; Schaumburgh-Lippe, 1 vote; Lippe, 1 vote; Lubeck, 1 vote; Bremen, 1 vote; Hamburg, 1 vote; total 53 votes. Each member of the confederation shall appoint as many delegates to the federal council as it has votes; the total of the votes of each state shall, however, be cast by only one delegate.

ARTICLE 7. The federal council shall take action upon—

1. The measures to be proposed to the diet and the resolutions passed by the same.

2. The general provisions and regulations necessary for the execution of the laws of the empire, so far as no other provision is made by said laws.

3. The defects which may be discovered in the execution of the laws of the empire, or of the provisions and regulations heretofore mentioned. Each member of the confederation shall have the right to introduce motions, and it shall be the duty of the presiding officer to submit them for deliberation.

Legislative action shall take place by simple majority, with the exceptions of the provisions in articles 5, 37, and 78. Votes not represented or instructed shall not be counted. In the case of a tie, the vote of the presiding officer shall decide.

When legislative action upon a subject which does not affect, according to the provisions of this constitution, the whole Empire is taken, the votes of only those states of the confederation shall be counted which shall be interested in the matter in question.

ARTICLE 8. The federal council shall appoint from its own members permanent committees—

1. On the army and the fortifications.

2. On naval affairs.
3. On duties and taxes.
4. On commerce and trade.
5. On railroads, post offices, and telegraphs.
6. On the judiciary.
7. On accounts.

In each of these committees there shall be representatives of at least four states of the confederation, beside the presiding officer, and each state shall be entitled to only one vote in the same.

In the committee on the army and fortifications Bavaria shall have a permanent seat; the remaining members of it, as well as the members of the committee on naval affairs, shall be appointed by the Emperor; the members of the other committees shall be elected by the federal council. These committees shall be newly formed at each session of the federal council, *i. e.*, each year, when the retiring members shall again be eligible.

Besides, there shall be appointed in the federal council a committee on foreign affairs, over which Bavaria shall preside, to be composed of the plenipotentiaries of the Kingdoms of Bavaria, Saxony, and Württemberg, and of two plenipotentiaries of the other states of the Empire, who shall be elected annually by the federal council. Clerks shall be placed at the disposal of the committees to perform the necessary work appertaining thereto.

ARTICLE 9. Each member of the federal council shall have the right to appear in the diet, and shall be heard there at any time when he shall so request, to represent the views of his government, even when the same shall not have been adopted by the majority of the council. Nobody shall be at the same time a member of the federal council and of the diet.

ARTICLE 10. The Emperor shall afford the customary diplomatic protection to the members of the federal council.

IV.—PRESIDIUM.

ARTICLE 11. The King of Prussia shall be the president of the confederation, and shall have the title of German Emperor. The Emperor shall represent the empire among nations, declare war, and conclude peace in the name of the same, enter into alliances and other conventions with foreign countries, accredit ambassadors, and receive them. For a declaration of war in the name of the empire, the consent of the federal council shall be required, except in case of an attack upon the territory of the confederation or its coasts.

So far as treaties with foreign countries refer to matters which, according to article 4, are to be regulated by the legislature of the empire, the consent of the federal council shall be required for their ratification, and the approval of the diet shall be necessary to render them valid.

ARTICLE 12. The Emperor shall have the right to convene the federal council and the diet, and to open, adjourn, and close them.

ARTICLE 13. The convocation of the federal council and the diet shall take place annually, and the federal council may be called together for the preparation of business without the diet; the latter, however, shall not be convoked without the federal council.

ARTICLE 14. The convocation of the federal council shall take place as soon as demanded by one-third of its members.

ARTICLE 15. The chancellor of the empire, who shall be appointed by the Emperor, shall preside in the federal council, and supervise the conduct of its business.

The chancellor of the empire shall have the right to delegate the power to represent him to any member of the federal council.

ARTICLE 16. The necessary bills shall be laid before the diet in the name of the Emperor, in accordance with the resolutions of the federal council, and they shall be represented in the diet by members of the federal council or by special commissioners appointed by said council.

ARTICLE 17. To the Emperor shall belong the right to prepare and publish the laws of the empire. The laws and regulations of the Emperor shall be published in the name of the empire, and require for their validity the signature of the chancellor of the empire, who thereby becomes responsible for their execution.

ARTICLE 18. The Emperor shall appoint the officers of the empire, require them to take the oath of allegiance, and dismiss them when necessary.

Officials appointed to an office of the empire from one of the states of the confederation shall enjoy the same rights to which they were entitled in their native states by their official position, provided no other legislative provision shall have been made previously to their entrance into the service of the empire.

ARTICLE 19. If states of the confederation shall not fulfill their constitutional duties,

proceedings may be instituted against them by military execution. This execution shall be ordered by the federal council, and enforced by the Emperor.

V.—DIET.

ARTICLE 20. The members of the diet shall be elected by universal suffrage, and by direct secret ballot.

Until regulated by law, which is reserved by section 5 of the election law of May 31, 1869, (*Bundesgesetzblatt*, 1869, section 145,) 48 delegates shall be elected in Bavaria, 17 in Württemberg, 14 in Baden, 6 in Hesse, south of the river Main, and the total number of delegates shall be 382.

ARTICLE 21. Officials shall not require a leave of absence in order to enter the diet. When a member of the diet accepts a salaried office of the empire, or a salaried office in one of the states of the confederation, or accepts any office of the empire, or of a state, with which a high rank or salary is connected, he shall forfeit his seat and vote in the diet, but may recover his place in the same by a new election.

ARTICLE 22. The proceedings of the diet shall be public.

Truthful reports of the proceedings of the public sessions of the diet shall subject those making them to no responsibility.

ARTICLE 23. The diet shall have the right to propose laws within the jurisdiction of the empire, and to refer petitions addressed to it to the federal council or the chancellor of the empire.

ARTICLE 24. Each legislative period of the diet shall last three years. The diet may be dissolved by a resolution of the federal council, with the consent of the Emperor.

ARTICLE 25. In the case of a dissolution of the diet, new elections shall take place within a period of 60 days, and the diet shall reassemble within a period of 90 days after the dissolution.

ARTICLE 26. Unless by consent of the diet, an adjournment of that body shall not exceed the period of 30 days, and shall not be repeated during the same session, without such consent.

ARTICLE 27. The diet shall examine into the legality of the election of its members and decide thereon. It shall regulate the mode of transacting business, and its own discipline, by establishing rules therefor, and elect its president, vice-presidents, and secretaries.

ARTICLE 28. The diet shall pass laws by absolute majority. To render the passage of laws valid, the presence of the majority of the legal number of members shall be required.

When passing laws which do not affect the whole empire, according to the provisions of this constitution, the votes of only those members shall be counted who shall have been elected in those states of the confederation which the laws to be passed shall affect.

ARTICLE 29. The members of the diet shall be the representatives of the entire people, and shall not be subject to orders and instructions from their constituents.

ARTICLE 30. No member of the diet shall at any time suffer legal prosecution on account of his vote, or on account of utterances made while in the performance of his functions, or be held responsible outside of the diet for his actions.

ARTICLE 31. Without the consent of the diet, none of its members shall be tried or punished, during the session, for any offense committed, except when arrested in the act of committing the offense, or in the course of the following day.

The same rule shall apply in the case of arrests for debt.

At the request of the diet, all legal proceedings instituted against one of its members, and likewise imprisonment, shall be suspended during its session.

ARTICLE 32. The members of the diet shall not be allowed to draw any salary, or be compensated as such.

VI.—CUSTOMS AND COMMERCE.

ARTICLE 33. Germany shall form a customs and commercial union, having a common frontier for the collection of duties. Such territories as cannot, by reason of their situation, be suitably embraced within the said frontier, shall be excluded. It shall be lawful to introduce all articles of commerce of a state of the confederation into any other state of the confederation, without paying any duty thereon, except so far as such articles are subject to taxation therein.

ARTICLE 34. The Hanseatic towns, Bremen and Hamburg, shall remain free ports outside of the common boundary of the customs union, retaining for that purpose a district of their own, or of the surrounding territory, until they shall request to be admitted into the said union.

ARTICLE 35. The empire shall have the exclusive power to legislate concerning everything relating to the customs, the taxation of salt and tobacco manufactured or

raised in the territory of the confederation; concerning the taxation of manufactured brandy and beer, and of sugar and sirup prepared from beets or other domestic productions. It shall have exclusive power to legislate concerning the mutual protection of taxes upon articles of consumption levied in the several states of the empire; against embezzlement; as well as concerning the measures which are required, in granting exemption from the payment of duties, for the security of the common customs frontier. In Bavaria, Württemberg, and Baden, the matter of imposing duties on domestic brandy and beer is reserved for the legislature of each country. The states of the confederation shall, however, endeavor to bring about uniform legislation regarding the taxation of these articles.

ARTICLE 36. The imposing of duties and excises on articles of consumption, and the collection of the same, (article 35,) is left to each state of the confederation within its own territory, so far as this has been done by each state heretofore.

The Emperor shall have the supervision of the institution of legal proceedings by officials of the empire, whom he shall designate as adjuncts to the custom or excise offices, and boards of directors of the several states, after hearing the committee of the Confederate Council on customs and revenues.

Notices given by these officials as to defects in the execution of the laws of the empire (article 35) shall be submitted to the confederate council for action.

ARTICLE 37. In taking action upon the rules and regulations for the execution of the laws of the empire, (article 35,) the vote of the presiding officer shall decide, whenever he shall pronounce for upholding the existing rule or regulation.

ARTICLE 38. The amounts accruing from customs and other revenues designated in article 35 of the latter, so far as they are subject to legislation by the diet, shall go to the treasury of the empire.

This amount is made up of the total receipts from the customs and other revenues, after deducting therefrom—

1. Tax compensations and reductions in conformity with existing laws or regulations.

2. Reimbursements for taxes unduly imposed.

3. The costs for collection and administration, viz :

- a. In the department of customs, the costs which are required for the protection and collection of customs on the frontiers and in the frontier districts.

- b. In the department of the duty on salt, the costs which are used for the pay of the officers charged with collecting and controlling these duties in the salt mines.

- c. In the department of duties on beet-sugar and tobacco, the compensation which is to be allowed, according to the resolutions of the confederate council, to the several state governments for the costs of the collection of these duties.

- d. Fifteen per cent. of the total receipts in the departments of the other duties.

The territories situated outside of the common customs frontier shall contribute to the expenses of the empire by paying an *aversum*, (a sum of acquittance.)

Bavaria, Württemberg, and Baden shall not share in the revenues from duties on liquors and beer, which go into the treasury of the empire, nor in the corresponding portion of the aforesaid *aversum*.

ARTICLE 39. The quarterly statements to be regularly made by the revenue officers of the federal states at the end of every quarter, and the final settlements (to be made at the end of the year, and after the closing of the account-books) of the receipts from customs, which have become due in the course of the quarter, or during the fiscal year, and the revenues of the treasury of the empire, according to article 38, shall be arranged by the boards of directors of the federal states, after a previous examination in general summaries in which every duty is to be shown separately; these summaries shall be transmitted to the federal committee on accounts.

The latter provisionally fixes, every three months, taking as a basis these summaries, the amount due to the treasury of the empire from the treasury of each state, and it shall inform the federal council and the federal States of this act; furthermore, it shall submit to the federal council, annually, the final statement of these amounts, with its remarks. The federal council shall act upon the fixing of these amounts.

ARTICLE 40. The terms of the customs-union treaty of July 8, 1867, remain in force, so far as they have not been altered by the provisions of this constitution, and as long as they are not altered in the manner designated in articles 7 and 78.

VII.—RAILWAYS.

ARTICLE 41. Railways, which are considered necessary for the defense of Germany or for purposes of general commerce, may be built for the account of the Empire by a law of the Empire, even in opposition to the will of those members of the confederation through whose territory the railroads run, without detracting from the rights of the sovereign of that country; or private persons may be charged with their construction and receive rights of expropriation. Every existing railway company is bound to permit new railroad lines to be connected with it, at the expense of these latter.

All laws granting existing railway companies the right of injunction against the building of parallel or competition lines are hereby abolished throughout the empire, without detriment to rights already acquired. Such right of injunction can henceforth not be granted in concessions to be given hereafter.

ARTICLE 42. The governments of the federal states bind themselves, in the interest of general commerce, to have the German railways managed as a uniform network, and for this purpose to have the lines constructed and equipped according to a uniform system.

ARTICLE 43. Accordingly, as soon as possible, uniform arrangements as to management, shall be made, and especially shall uniform regulations be instituted for the police of the railroads. The Empire shall take care that the administrative officers of the railway lines keep the roads always in such a condition as is required for public security, and that they be equipped with the necessary rolling stock.

ARTICLE 44. Railway companies are bound to establish such passenger trains of suitable velocity as may be required for ordinary travel, and for the establishment of harmonizing schedules of travel; also, to make provision for such freight trains as may be necessary for commercial purposes, and to establish, without extra remuneration, offices for the direct forwarding of passengers and freight trains, to be transferred, when necessary, from one road to another.

ARTICLE 45. The Empire shall have control over the tariff of fares. The same shall endeavor to cause—

1. Uniform regulations to be speedily introduced on all German railway lines.

2. The tariff to be reduced and made uniform as far as possible, and particularly to cause a reduction of the tariff for the transport of coal, coke, wood, minerals, stone, salt, crude iron, manure, and similar articles, for long distances, as demanded by the interests of agriculture and industry, and to introduce a one-penny tariff as soon as practicable.

ARTICLE 46. In case of distress, especially in case of an extraordinary rise in the price of provisions, it shall be the duty of the railway companies to adopt temporarily a low special tariff, to be fixed by the Emperor, on motion of the competent committee, for the forwarding of grain, flour, vegetables, and potatoes. This tariff shall, however, not be less than the lowest rate for raw produce existing on the said line.

The foregoing provisions, and those of articles 42 to 45, shall not apply to Bavaria.

The imperial government has, however, the power, also with regard to Bavaria, to establish, by way of legislation, uniform rules for the construction and equipment of such railways as may be of importance for the defense of the country.

ARTICLE 47. The managers of all railways shall be required to obey, without hesitation, requisitions made by the authorities of the empire for the use of their roads for the defense of Germany. Particularly shall the military and all material of war be forwarded at uniform reduced rates.

VIII.—MAILS AND TELEGRAPHS.

ARTICLE 48. The mails and telegraphs shall be organized and managed as state institutions throughout the German Empire. The legislation of the empire in regard to postal and telegraphic affairs, provided for in article 4, does not extend to those matters whose regulation is left to the managerial arrangement, according to the principles which have controlled the North German administration of mails and telegraphs.

ARTICLE 49. The receipts of mails and telegraphs are a joint affair throughout the Empire. The expenses shall be paid from the general receipts. The surplus goes into the treasury of the Empire. (Section 12.)

ARTICLE 50. The Emperor has the supreme supervision of the administration of mails and telegraphs. The authorities appointed by him are in duty bound and authorized to see that uniformity be established and maintained in the organization of the administration and in the transaction of business, as also in regard to the qualifications of employés.

The Emperor shall have the power to make general administrative regulations, and also exclusively to regulate the relations which are to exist between the post and telegraph offices of Germany and those of other countries.

It shall be the duty of all officers of the post-office and telegraph department to obey imperial orders. This obligation shall be included in their oath of office.

The appointment of superior officers (such as directors, counselors, and superintendents,) as they shall be required for the administration of the mails and telegraphs, in the various districts; also the appointment of officers of the posts and telegraphs, (such as inspectors or comptrollers,) acting for the aforesaid authorities in the several districts, in the capacity of supervisors, shall be made by the Emperor for the whole territory of the German Empire, and these officers shall take the oath of fealty to him as a part of their oath of office. The governments of the several states shall be informed in due time, by means of imperial confirmation and official publication, of the aforementioned appointments, so far as they may relate to their territories.

Other-officers required by the department of mails and telegraphs, as also all officers to be employed at the various stations, and for technical purposes, and hence officiating at the actual centers of communication, &c., shall be appointed by the respective governments of the states.

Where there is no independent administration of inland mails or telegraphs, the terms of the various treaties are to be enforced.

ARTICLE 51. In assigning the surplus of the post-office department to the treasury of the Empire for general purposes, (article 49,) the following proceeding is to be observed in consideration of the difference which has heretofore existed in the clear receipts of the post-office departments of the several territories, for the purpose of securing a suitable equalization during the period of transition below named.

Of the post-office surplus, which accumulated in the several mail districts during the five years from 1861 to 1865, an average yearly surplus shall be computed, and the share which every separate mail district has had in the surplus resulting therefrom for the whole territory of the Empire shall be fixed upon by a percentage.

In accordance with the proportion thus made, the several states shall be credited on the account of their other contributions to the expenses of the empire with their quota accruing from the postal surplus in the Empire, for a period of eight years subsequent to their entrance into the post-office department of the empire.

At the end of the said eight years this distinction shall cease, and any surplus in the post-office department shall go, without division, into the treasury of the empire, according to the principle enunciated in article 49.

Of the quota of the post-office department surplus resulting during the aforementioned period of eight years in favor of the Hanseatic towns, one-half shall every year be placed at the disposal of the Emperor, for the purpose of providing for the establishment of uniform post-offices in the Hanseatic towns.

ARTICLE 52. The stipulations of the foregoing articles 48 to 51 do not apply to Bavaria and Wurtemberg. In their stead the following stipulation shall be valid for these two states of the confederation.

The Empire alone is authorized to legislate upon the privileges of the post-office and telegraph departments, on the legal position of both institutions toward the public, upon the franking privilege and rates of postage, and upon the establishment of rates for telegraphic correspondence into Hanseatic towns. Exclusive, however, of managerial arrangements, and the fixing of tariffs for internal communication within Bavaria and Wurtemberg.

In the same manner the Empire shall regulate postal and telegraphic communication with foreign countries, excepting the immediate communication of Bavaria and Wurtemberg with their neighboring states, not belonging to the Empire, in regard to which regulation the stipulations in articles 49 of the postal treaty of November 23, 1867, remains in force.

Bavaria and Wurtemberg shall not share in the postal and telegraphic receipts which belong to the treasury of the Empire.

IX.—MARINE AND NAVIGATION.

ARTICLE 53. The navy of the empire is a united one, under the supreme command of the Emperor. The Emperor is charged with its organization and arrangement, and he shall appoint the officers and officials of the navy, and in his name these and the seamen are to be sworn in.

The harbor of Kiel and the harbor of the Jade are imperial war harbors.

The expenditures required for the establishment and maintenance of the navy and the institutions connected therewith shall be defrayed from the treasury of the Empire.

All sea-faring men of the Empire, including machinists and hands employed in ship-building, are exempt from service in the army, but obliged to serve in the imperial navy.

The apportionment of men to supply the wants of the navy shall be made according to the actual sea-faring population, and the quota furnished in accordance herewith by each state shall be credited to the army account.

ARTICLE 54. The merchant vessels of all states of the confederation shall form a united commercial marine.

The Empire shall determine the process for ascertaining the tonnage of sea-going vessels, shall regulate the issuing of tonnage-certificates and sea-letters, and shall fix the conditions to which a permit for commanding a sea-going vessel shall be subject.

The merchant vessels of all the states of the confederation shall be admitted on an equal footing to the harbors, and to all natural and artificial water-courses of the several states of the confederation, and shall receive the same usage therein.

The duties which shall be collected from sea-going vessels, or levied upon their freights, for the use of naval institutions in the harbors, shall not exceed the amount required for the maintenance and ordinary repair of these institutions.

On all natural water-courses, duties are only to be levied for the use of special estab-

lishments, which serve for facilitating commercial intercourse. These duties, as well as the duties for navigating such artificial channels, which are property of the state, are not to exceed the amount required for the maintenance and ordinary repair of the institutions and establishments. These rules apply to rafting, so far as it is carried on on navigable water-courses.

The levying of other or higher duties upon foreign vessels or their freights than those which are paid by the vessels of the federal states or their freights does not belong to the various states, but to the Empire.

ARTICLE 55. The flag of the war and merchant navy shall be black, white, and red.

X.—CONSULAR AFFAIRS.

The Emperor shall have the supervision of all consular affairs of the German Empire, and he shall appoint consuls, after hearing the committee of the federal council on commerce and traffic.

No new state consulates are to be established within the jurisdiction of the German consuls. German consuls shall perform the functions of state consuls for the states of the confederation not represented in their district. All the now existing state consulates shall be abolished, as soon as the organization of the German consulates shall be completed, in such a manner that the representation of the separate interests of all the federal states shall be recognized by the federal council as secured by the German consulates.

XI.—MILITARY AFFAIRS OF THE EMPIRE.

ARTICLE 57. Every German is subject to military duty, and in the discharge of this duty no substitute can be accepted.

ARTICLE 58. The costs and the burden of all the military system of the empire are to be borne equally by all the federal states and their subjects, and no privileges or molestations to the several states or classes are admissible. Where an equal distribution of the burdens cannot be effected *in natura* without prejudice to the public welfare, affairs shall be equalized by legislation in accordance with the principles of justice.

ARTICLE 59. Every German capable of bearing arms shall serve for seven years in the standing army, ordinarily from the end of his twentieth to the beginning of his twenty-eighth year; the first three years in the army of the field, the last four years in the reserve; during the next five years he shall belong to the militia. In those states of the confederation in which heretofore a longer term of service than twelve years was required by law, the gradual reduction of the required time of service shall take place in such a manner as is compatible with the interests and the war-footing of the army of the empire.

As regards the emigration of men belonging to the reserve, only those provisions shall be in force which apply to the emigration of members of the militia.

ARTICLE 60. The strength of the German army in time of peace shall be, until the 31st December, 1871, one per cent. of the population of 1867, and shall be furnished by the several federal states in proportion to their population. In future the strength of the army in time of peace shall be fixed by legislation.

ARTICLE 61. After the publication of this constitution the full Prussian military system of legislation shall be introduced without delay throughout the Empire, as well the statutes themselves as the regulations, instructions, and ordinances issued for their execution, explanation, or completion; thus, in particular, the military penal code of April 3, 1845; the military orders of the penal court of April 3, 1845; the ordinance concerning the courts of honor of July 20, 1843; the regulations with respect to recruiting, time of service, matters relating to the service and subsistence, to the quartering of troops, claims for damages, mobilizing, &c., for times of peace and war. Orders for the attendance of the military upon religious services is, however, excluded.

When a uniform organization of the German army shall have been established, a comprehensive military law for the Empire shall be submitted to the diet and the federal council for their action in accordance with the constitution.

ARTICLE 62. For the purpose of defraying the expenses of the whole German army, and the institutions connected therewith, the sum of 225 (two hundred and twenty-five) thalers shall be placed at the disposal of the Emperor until the 31st of December, 1871, for each man in the army on the peace-footing, according to article 60. (See section 12.)

After the 31st of December, 1871, the payment of these contributions of the several states to the imperial treasury must be continued. The strength of the army in time of peace, which has been temporarily fixed in article 60, shall be taken as a basis for calculating these amounts until it shall be altered by a law of the Empire.

The expenditure of this sum for the whole army of the empire and its establishments shall be determined by a budget law.

In determining the budget of military expenditures, the lawfully established organization of the imperial army, in accordance with this constitution, shall be taken as a basis.

ARTICLE 63. The total land force of the empire shall form one army, which, in war and in peace, shall be under the command of the Emperor.

The regiments, &c., throughout the whole German army shall bear continuous numbers. The principal colors and the cut of the garments of the Royal Prussian army shall serve as a pattern for the rest of the army. It is left to commanders of contingent forces to choose the external badges, cockades, &c.

It shall be the duty and the right of the Emperor to take care that, throughout the German army, all divisions be kept full and well equipped, and that unity be established and maintained in regard to organization and formation, equipment, and command in the training of the men, as well as in the qualification of the officers. For this purpose the Emperor shall be authorized to satisfy himself at any time of the condition of the several contingents, and to provide remedies for existing defects.

The Emperor shall determine the strength, composition, and division of the Contingents of the imperial army, and also the organization of the militia, and he shall have the right to designate garrisons within the territory of the confederation, as also to call any portion of the army into active service.

In order to maintain the necessary unity in the care, arming, and equipment of all troops of the German army, all orders hereafter to be issued for the Prussian army shall be communicated in due form to the commanders of the remaining contingents by the committee on the army and fortifications, provided for in article 8, No. 1.

ARTICLE 64. All German troops are bound implicitly to obey the orders of the Emperor. This obligation shall be included in the oath of allegiance. The commander-in-chief of a contingent, as well as all officers commanding troops of more than one contingent, and all commanders of fortresses, shall be appointed by the Emperor. The officers appointed by the Emperor shall take the oath of fealty to him. The appointment of generals, or of officers performing the duties of generals, in a contingent force, shall be in each case subject to the approval of the Emperor.

The Emperor has the right with regard to the transfer of officers, with or without promotion, to positions which are to be filled in the service of the Empire, be it in the Prussian army or in other contingents, to select from the officers of all the contingents of the army of the Empire.

ARTICLE 65. The right to build fortresses within the territory of the Empire shall belong to the Emperor, who, according to section 12, shall ask for the appropriation of the necessary means required for that purpose, if not already included in the regular appropriation.

ARTICLE 66. If not otherwise stipulated, the princes of the Empire and the senates shall appoint the officers of their respective contingents, subject to the restriction of article 64. They are the chiefs of all the troops belonging to their respective territories, and are entitled to the honors connected therewith. They shall have especially the right to hold inspections at any time, and receive, besides the regular reports and announcements of changes for publication, timely information of all promotions and appointments concerning their respective contingents.

They shall also have the right to employ, for police purposes, not only their own troops but all other contingents of the army of the Empire who are stationed in their respective territories.

ARTICLE 67. The unexpended portion of the military appropriation shall, under no circumstances, fall to the share of a single government, but at all times to the treasury of the Empire.

ARTICLE 68. The Emperor shall have the power, if the public security of the Empire demands it, to declare martial law in any part thereof, until the publication of a law regulating the grounds, the form of announcement, and the effects of such a declaration, the provisions of the Prussian law of June 4, 1851, shall be substituted therefor. (Laws of 1851, page 451.)

Addition to section XI.

The provisions contained in this section shall go into effect in Bavaria as provided for in the treaty of alliance of November 23, 1870, (Bundesgesetzblatt, 1871, section 9,) under III, section 5, in Württemberg, as provided for in the military convention of November 21-25, 1870, (Bundesgesetzblatt, 1870, section 658.)

XII.—FINANCES OF THE EMPIRE.

ARTICLE 69. All receipts and expenditures of the Empire shall be estimated yearly, and included in the financial estimate. The latter shall be fixed by law before the beginning of the fiscal year, according to the following principles:

ARTICLE 70. The surplus of the previous year, as well as the customs duties, the common excise duties, and the revenues derived from the postal and telegraph service, shall be applied to the defrayal of all general expenditures. In so far as these expenditures are not covered by the receipts, they shall be raised, as long as no taxes of the Empire shall have been established, by assessing the several states of the Empire.

according to their population, the amount of the assessment to be fixed by the chancellor of the Empire in accordance with the budget agreed upon.

ARTICLE 71. The general expenditures shall be, as a rule, granted for one year; they may, however, in special cases, be granted for a longer period. During the period of transition fixed in article 60, the financial estimate, properly classified, of the expenditures of the army shall be laid before the federal council and the diet for their information.

ARTICLE 72. An annual report of the expenditure of all the receipts of the Empire shall be rendered to the federal council and the diet, through the chancellor of the empire.

ARTICLE 73. In cases of extraordinary requirements, a loan may be contracted in accordance with the laws of the Empire, such loan to be granted by the Empire.

Addition to section XII.

Articles 69 and 71 apply to the expenditures for the Bavarian army only according to the provisions of the addition to section XI of the treaty of November 23, 1870; and article 72 only so far as is required to inform the federal council and the diet of the assignment to Bavaria of the required sum for the Bavarian army.

XIII.—SETTLEMENT OF DISPUTES AND MODES OF PUNISHMENT.

ARTICLE 74. Every attempt against the existence, the integrity, the security, or the constitution of the German Empire; finally, any offense committed against the federal council, the diet, a member of the federal council or of the diet, a magistrate or public official of the Empire, while in the execution of his duty, or with reference to his official position, by word, writing, printing, signs, or caricatures, shall be judicially investigated, and upon conviction punished in the several states of the Empire according to the laws therein existing, or which shall hereafter exist in the same, according to which laws a similar offense against any one of the states of the empire, its constitution, legislature, members of its legislature, authorities or officials is to be judged.

ARTICLE 75. For those offenses, specified in article 74, against the German Empire, which, if committed against one of the states of the Empire, would be deemed high treason, the superior court of appeals of the three free Hanseatic towns at Lubeck shall be the competent deciding tribunal in the first and last resort. More definite provisions as to the competency and the proceedings of the superior court of appeals shall be adopted by the legislature of the empire. Until the passage of a law of the Empire, the existing competency of the courts in the respective states of the empire, and the provisions relative to the proceedings of those courts, shall remain in force.

ARTICLE 76. Disputes between the different states of the confederation, so far as they are not of a private nature, and therefore to be decided by the competent authorities, shall be settled by the federal council, at the request of one of the parties. Disputes relating to constitutional matters in those of the states of the confederation whose constitution contains no provision for the settlement of such differences, shall be adjusted by the federal council, at the request of one of the parties, or, if this cannot be done, they shall be settled by the legislative power of the confederation.

ARTICLE 77. If in one of the states of the confederation justice shall be denied, and no sufficient relief can be procured by legal measures, it shall be the duty of the federal council to receive substantiated complaints concerning denial or restriction of justice, which are to be judged according to the constitution and the existing laws of the respective states of the confederation, and thereupon to obtain judicial relief from the confederate government in the matter which shall have given rise to the complaint.

XIV.—GENERAL PROVISION.

Amendments to the constitution shall be made by legislative enactment. They shall be considered as rejected when 14 votes are cast against them in the federal council. The provisions of the constitution of the empire, by which fixed rights of individual states of the confederation are established in their relation to the whole, shall only be modified with the consent of that state of the confederation which is immediately concerned.

No. 172.

Mr. Bancroft to Mr. Fish.

No. 226.]

AMERICAN LEGATION,
Berlin, May 29, 1871. (Received June 14.)

SIR: To the inquiry when diplomatic relations with France will be resumed, the Foreign Office still answers that the time is not yet definitely known. I shall telegraph to you, according to your directions, as soon as it can be done. I have written to Mr. Washburne, but as yet have received from him no answer.

The German estimate of the number of lives lost in the city of Paris, since the beginning of the French bombardment, including men, women, and children, is fifty thousand. Bodies lie unburied in the streets, and there is no orderly provision for the wounded.

The finances of France occupy public attention. By the treaty of peace Germany is to receive, thirty days after the restoration of order in Paris, five hundred millions of francs, and in the course of the year a milliard more. I am told that an association of European bankers, is disposed to provide for the first payment, receiving French 3 per cent. rentes at 50 per cent., and a commission of 4 per cent. Subscriptions to the loan, at the rate of 50 per cent., are to be opened in all parts of France, and the bankers are to make good the deficiency in the subscription, but to receive the commission of 4 per cent. on the whole; and they are further to have a six months' option of taking the milliard on the same conditions.

The debt of France before the war was about thirteen milliards; add to this the debt incurred by Napoleon in the early part of the war; the debt incurred by Gambetta; the debt incurred by the Versailles government in subduing the insurrection in Paris, and now the five milliards that are promised to Germany, and the aggregate seems more than even a state so wealthy as France can bear. Moreover, the cities and departments of France have large debts of their own. The prospect is very sad for a people which in habits of order and powers of generalization and analysis excelled all others in Europe. I hear from the most intelligent men of Germany ardent wishes for the recovery of France, and the acknowledgment that its peculiar office in the civilization of Europe cannot be made good by any other nation.

I remain, &c., &c.,

GEO. BANCROFT.

No. 173.

Mr. Bancroft to Mr. Fish.

No. 227.]

AMERICAN LEGATION,
Berlin, May 30, 1871. (Received June 14.)

SIR: I received from you, last evening, an official copy of the treaty of Washington, as published by order of the Senate. The treaty, in whole or in copious abstracts, had already gone through the European papers, and the decision of the Senate was made known by cable as soon as the vote was declared. Justice is everywhere done to the ability and moderation of the American negotiators, and the result is considered in the highest degree, I might almost say in an unexampled degree, honor-

able to them ; and this opinion is held most strongly by those who understand international relations best.

In efficiency and dignity the conference at Washington contrasts most favorably with the late conference at London on the Pontus question.

Of course I do not as yet officially present the treaty to this government, but await your instructions.

I remain, &c., &c.,

GEO. BANCROFT.

No. 174.

Mr. Bancroft to Mr. Fish.

No. 230.]

AMERICAN LEGATION,
Berlin, June 5, 1871. (Received June 21.)

SIR : The answer to my informal inquiries when diplomatic relations will be resumed with France is still indefinite. I annex a copy of a note which I have received from Mr. Washburne, who, at my request, made corresponding inquiries at Paris. I think the question will be settled within a few days. The great subject of political interest for the last week has been the bill for establishing a government in the new province of Alsace and Lorraine. Under the old German Empire the free cities, with their domain, stood directly under the protection of the Emperor. In theory, Alsace and Lorraine form a district belonging neither to Prussia nor to any other of the German states, standing directly, not under the King of Prussia, but under the Emperor of Germany. An exact conformity to the old precedents would make of them a republic under the protectorate of the Emperor. Prince Bismarck declared his wish to establish in the new territory self-government in the fullest extent compatible with their forming an integral part of Germany. Especially he was anxious to secure to the new provinces their own legislature, with control over their own internal affairs. In particular he desired to protect them against the interference of the German Parliament in affairs that belonged exclusively to themselves. In the course of the debate incidents in American history were repeatedly introduced as authorities, and our system of concentrating general affairs in the hands of the General Government, and distributing affairs of local interest among the several States, is working itself more and more into German institutions. During the debates there was at one time a fear of some serious difference between the chancellor and the diet; but, while the diet maintained with dignity all its rights as a deliberative body, it manifested, in a remarkable degree, the strength of its attachment to Prince Bismarck, and confidence in his wisdom. Indeed, the relation between the prince and the diet is unique. He has neither a party nor a majority at his bidding, but carries his measures by appeals to the judgment and sentiment of the house. His support comes sometimes from one side, sometimes from another; but on every side he is looked upon as the only possible chief minister for Germany at the present time. He has not only no rival, but nobody is thought of as eventually able to take his place.

I remain, &c., &c.,

GEO. BANCROFT.

Mr. Washburne to Mr. Bancroft.

PARIS, May 31, 1871.

MY DEAR COLLEAGUE: I have the honor to acknowledge the receipt of your letter of the 22d instant. I thank you for the copy of the dispatch. I had Colonel Hoffman see Mr. Jules Favre on last Monday, and Mr. F. informed him that France was now ready to resume diplomatic relations with the German Empire, and that they were only waiting to find the right man to send to Berlin as minister. He thought that would be in the course of a week or two. While I should be very glad to be relieved of my charge, yet I shall take pleasure in acting for the German government until their minister shall come to my relief. Some few Germans, and a large number of Alsacians, have been arrested in these latter days, and I am occupied in getting them discharged. By good fortune the Prussian embassy has escaped all damage, and I so telegraphed Prince de Bismarck the other day.

I remained here during the whole period of the infernal insurrection, and I saw it go out in fire and blood, and amid scenes which have no parallel in the history of civilization. No consideration on earth, except one of the highest, that of the discharge of a sacred public duty, could ever induce me to go through what I have passed through for the last nine months, and more particularly the last ten weeks. But it is a pleasure for me to know that I have been able to protect the lives and property of all the Americans, and I believe all the Germans, in Paris, but it has been at a fearful risk. The greater part of my labor and responsibility has been in regard to the Germans and Alsacians, and which will, in due time, be made by me the subject of an official dispatch.

The suppression of the insurrection brings with it a military rule (perhaps necessary) of terrible severity. No persons are permitted to leave Paris at present, and I do not know how long people are to be shut in.

As soon as things get quieted down here, and as soon as I am relieved of my German charge, I propose going to Carlsbad for six weeks to recruit my health.

Believe me, &c.,

E. B. WASHBURN.

No. 175.

Mr. Bancroft to Mr. Fish.

[Extracts.]

No. 233.]

AMERICAN LEGATION,
Berlin, June 12, 1871. (Received June 29.)

SIR: All Berlin is alive with preparations for the triumphal entry of the Emperor into the capital of Germany on Friday next, and between two and three hundred thousand people from abroad are expected here on the occasion. The most interesting business before the Diet relates to indemnity for losses during the war, and the indemnification is to be carried further than ever before.

Ship-owners whose ships were detained in foreign ports are to receive relief for the extraordinary expenses to which they were exposed. Everything destroyed in Alsace and the German part of Lorraine is to be paid for or rebuilt.

Four millions of thalers are to be set apart for distribution among the generals who have most distinguished themselves in the late war, and this appropriation will be voted by parliament out of the moneys to be received from France. The chancellor of the empire, lately raised to the rank of a prince, will receive a forest in the duchy of Lauenburg, esteemed to be worth one million of thalers. This donation will be made by the King of Prussia as duke of Lauenburg; and the property is so situated that no act of parliament will be needed to confirm the grant.

The diplomatic relations of the new empire are receiving some extension in the east and in the west.

A chargé d'affaires from Japan appeared here not long ago, and fifty-

five young Japanese, as he informs me, are now distributed through Germany, diligently engaged in making themselves masters of the German language and culture. The chargé manifested a particular wish to place himself on the best terms with the American legation here. He brought me, however, nothing from your department. The republic of Colombia has sent here Mr. Santa Maria as consul general, with a contingent appointment as chargé. He came immediately to me before presenting himself to the government, declaring that he was instructed to do so by his own government, and appeared to take very great pleasure in representing the close analogy between the constitution of the United States of Colombia and our own. But he brought me no letter whatever from any one, and I have no instruction respecting him from you. His manner implied a very hearty sympathy with our government, and a disposition to lean upon it for moral support.

I have already written you that diplomatic relations between Berlin and Versailles will soon be opened by the mutual appointment of chargés d'affaires. Viscount Gabriac—not he whose wife is an American lady, formerly of New York—is expected before many days. This government has appointed for Versailles Count Waldersee, who was formerly military attaché to the Prussian embassy at Paris. Very few days will elapse before this arrangement will go into effect. So soon as Count Waldersee enters upon his duties, Mr. Washburne can give up his duty of protecting Germans in France. I keep him informed of what passes here on the subject. Count Waldersee leaves for France to-morrow.

I remain, &c.,

GEO. BANCROFT.

No. 176.

Mr. Bancroft to Mr. Fish.

No. 238.]

AMERICAN LEGATION,
Berlin, June 20, 1871. (Received July 15.)

SIR: Four days of sunshine intervening between periods of incessant rain gave brilliancy to the military entry of the Emperor of Germany into his capital.

The *via triumphalis* was about three miles long, through streets as wide and in some places thrice as wide as Broadway. Lines of cannon captured from the French were ranged in close order on each side of the way, and the whole line of march was through an *allée* of flag-staffs garlanded and festooned with oak-leaves and evergreens. The flags, as they represented Germany and its several States, were of all colors, and all harmoniously contrasted and blended. The best talent of the sculptors and painters of Berlin was called into requisition, and, under the hands of men of genius, the coarsest linen, stuffed with straw and covered with gypsum, produced in the distance the effect of marble, and, near at hand, that of casts of beautiful statues. At the starting point of the march, a gigantic image, representing the city of Berlin, gave the welcome to the returning troops. Midway on the line of march a colossal victory, having on her right hand and left statues of Strasburg and Metz, in sitting posture, was much admired. At the end, a Germania receiving back into her arms Alsace and Lorraine, on a pedes-

tal encircled by *bas-reliefs*, was generally thought a design worthy of being perpetuated in bronze or marble. In the street *Unter den Linden* skillfully executed historical and allegorical pictures, of enormous dimensions, hung across the avenue along which the army was to pass. The Academy of Arts was conspicuous by well-executed full-length portraits of the Emperor, Bismarck, and the generals. Altogether the decorations were never paltry or common-place, but the designs showed, on the part of the artists, felicity and fertility of invention. The Emperor, now in his seventy-fifth year, rode out to his troops at 10 o'clock, returned at the head of forty thousand men, and, in the scorching sun, received the salutations of all the regiments as they passed by him, and then superintended the unveiling of the statue of his father, remaining on horseback more than six hours, and in all that time showing no sign of fatigue. The spectacle was not inferior to the Roman triumphs of old, except, indeed, that prisoners did not form a part of the procession, and that no other spoils were exhibited beyond captured eagles and banners, and trophies gained in battle. The pageant had for its spectators, besides the citizens of Berlin, three or four hundred thousand strangers, gathered from Germany and almost every part of the civilized world.

The United States were much more largely represented than any other foreign country. In this latitude, where twilight lingers late into the night, the illumination was necessarily short, but very brilliant and universal. No inhabited hut was so poor as not to join in it. At the gala performance in the opera on Saturday evening, the Emperor and Empress appeared, surrounded by their children and the various branches of their family, and by many members of the regal and princely houses of Germany; pit, balcony, and boxes were filled, chiefly with the most distinguished generals who have taken part in the war, high officials of the kingdom and empire, and members of their families. Those of our sex glittered each in what Shakespeare calls "a mine of gold," those of the other sparkled in clusters and rivers of diamonds and precious stones. Of the two pieces that were performed, the first represented Justice as having done its work in the late war, and now introducing Peace attended by all the Seasons and all the Arts. The second showed Barbarossa spell-bound in his cave, dreaming on till the empire should be restored, and seeing in his visions what the spectators saw in *tableaux vivants*, the epoch-making incidents of German history, from the crusades, and early humble fortunes of the younger branch of the Hohenzollerns, to the moment when its chief was upborne at Versailles as Emperor by the arms of the princes of Germany. Sunday was the day of thanksgiving. Two or three months ago a good deal was spoken of a fast in commemoration of those who had fallen in the war, but the feeling of joy could not be restrained; men thought the union and peace of Germany not too dearly bought by the loss of many of the best, and that it should therefore be celebrated not by mourning, but by a festival. The days of triumph being past, Berlin, after almost a full year of intensest excitement, falls back into its normal quietude in midsummer, only with a feeling of security such as it never had before. On the other hand, France still remains in an unsettled state, in danger of being torn by dynastic factions. As a republic, if its government were well established, it would again recover its influence. But almost the only French institution which has passed through the war unscathed is the organized Catholic church. The archbishops, bishops, priests, and inferior clergy are all there as before. The archbishop of Paris, who had fallen under suspicion, is venerated as an orthodox martyr. The liberal Père Hyacinthe pleads for hours together

for the civil dominion of the Pope, and the clerical party strains its influence for the restoration of the Pope in Italy and the Bourbons at home. But France will never submit to the rule of Jesuits. Any dynasty that might return to power would represent, not the country, but a faction or party. Nothing can so well unite France as a well-organized republic, and yet even a republic is not sure of support from a majority of the cultivated classes, or of the nation. Everything there is heaving and tossing in uncertain expectation, while here the world moves on in tranquillity which nothing now within view is likely to disturb. The Emperor, in his old age, finds himself happy in the love and confidence of his whole people.

I remain, &c.,

GEO. BANCROFT.

No. 177.

Mr. Fish to Mr. Bancroft.

No. 351.]

DEPARTMENT OF STATE,
Washington, July 18, 1871.

SIR: I transmit to you herewith the draft of a note which, in conjunction with the representative of Her Britannic Majesty, you will present to the government of the Emperor of Germany, in pursuance of the thirty-fourth article of a treaty signed at Washington on the 8th of May, 1871, of which a copy is herewith sent, requesting that His Imperial Majesty will be pleased to act as arbitrator in a question which has arisen between the Governments of the United States and of Great Britain, in regard to a line of boundary between the Territories of the United States and those of Her Britannic Majesty, under the first article of the treaty concluded at Washington on the 15th of June, 1846, a copy of which is also sent to you. You will accordingly arrange with your British colleague for the simultaneous presentation of your respective notes.

I am, &c.,

HAMILTON FISH.

Draft of note to be presented to the government of the Emperor of Germany.

The Government of the United States and the government of Her Britannic Majesty having agreed, by a treaty signed at Washington on the 8th of May, 1871, of which a copy is hereunto annexed, together with a copy of the previous treaty of June 15, 1846, herein referred to, to submit to the arbitration and award of His Majesty the Emperor of Germany the decision of the question set forth in the thirty-fourth article of the first-named treaty, in the following words: "Whereas it was stipulated by article I of the treaty concluded at Washington on the 15th of June, 1846, between Her Britannic Majesty and the United States, that the line of boundary between the Territories of the United States and those of Her Britannic Majesty, from the point on the forty-ninth parallel of north latitude up to which it had already been ascertained, should be continued westward along the said parallel of north latitude to the middle of the channel which separates the continent from Vancouver's Island, and thence southerly through the middle of the said channel and of Fuca Straits to the Pacific Ocean; and whereas the commissioners appointed by the two high contracting parties to determine that portion of the boundary which runs southerly through the middle of the channel aforesaid were unable to agree upon the same; and whereas the government of Her Britannic Majesty claims that such boundary line should, under the terms of the treaty above recited, be run through the Rosario Straits, and the Government of the United States claims that it should be run through the Canal de Haro, it is agreed that the

respective claims of the Government of the United States and of the government of Her Britannic Majesty shall be submitted to the arbitration and award of His Majesty the Emperor of Germany, who, having regard to the above-mentioned article of the said treaty, shall decide thereupon finally, and without appeal, which of those claims is most in accordance with the true interpretation of the treaty of June 15, 1846;" and the high contracting parties reposing entire confidence in the spirit of justice and impartiality which distinguish His Imperial Majesty, the common friend of the two states, having agreed, in pursuance of the said treaty, to address themselves to His Imperial Majesty, and having further mutually engaged, in the event of His Imperial Majesty being willing to afford his good offices as arbitrator on this occasion, to consider the award of His Majesty as absolutely final and conclusive, and to give effect to the same without any objection, evasion, or delay whatsoever, the undersigned has received the orders of his Government to communicate to His Imperial Majesty the treaty which has thus been made on the part of the Government of the United States, and to express the President's earnest desire that His Imperial Majesty will be pleased to take upon him the office of arbitrator in the question. The undersigned has the honor to request His Serene Highness the Prince Bismarck to lay this communication before His Majesty the Emperor of Germany, and to be pleased to make known to the undersigned His Imperial Majesty's determination with regard to his acceptance of the desired arbitration.

No. 178.

Mr. Bancroft to Mr. Fish.

[Extract.]

No. 249.]

AMERICAN LEGATION,
Berlin, July 29, 1871. (Received August 18.)

SIR: This day, at a quarter before 1, I took the British chargé in my carriage to the Foreign Office, where we delivered simultaneously formal notes, identical in terms, addressed to Prince Bismarck, chancellor of the empire, requesting the German Emperor to accept the office of arbiter on the northwestern boundary question, under the treaty of Washington. I annex a copy of the note.

* * * * *

I remain, &c.,

GEO. BANCROFT.

Mr. Bancroft to Prince Bismarck.

AMERICAN LEGATION,
Berlin, July 29, 1871.

The Government of the United States of America and the government of Her Britannic Majesty having agreed, by a Treaty signed at Washington the 6th of May, 1871, of which a copy is hereunto annexed, together with a copy of the previous treaty of June 15, 1846, herein referred to, to submit to the arbitration and award of His Majesty the Emperor of Germany the decision of the question set forth in the thirty-fourth article of the first-named treaty, in the following words: [Here follows verbatim the entire article thirty-fourth, of the first-mentioned treaty.] And the high contracting parties reposing entire confidence in the spirit of justice and impartiality which distinguishes His Imperial Majesty, the common friend of the two states, having agreed in pursuance of the said treaty to address themselves to His Imperial Majesty; and having further mutually engaged, in the event of His Imperial Majesty being willing to afford his good offices as arbitrator, on this occasion, to consider the award of His Imperial Majesty as absolutely final and conclusive, and to give effect to the same without any objection, evasion, or delay whatsoever, the undersigned has received the orders of his Government to communicate to His Imperial Majesty the treaty which has thus been made on the part of the United States, and to express the earnest desire

of the President of the United States that His Imperial Majesty will be pleased to take upon him the office of arbitrator in the question.

The undersigned has the honor to request His Serene Highness the Prince Bismarck to lay this communication before His Majesty the Emperor of Germany, and to be pleased to make known to the undersigned His Imperial Majesty's determination with regard to his acceptance of the desired arbitration. The undersigned seizes this opportunity to renew to His Serene Highness Prince Bismarck the assurances of his highest consideration.

No. 179.

Mr. Bancroft to Mr. Fish.

No. 253.]

AMERICAN LEGATION,

Berlin, August 21, 1871. (Received September 7.)

SIR: The German secretary of state has notified to me and to the British legation that the Emperor of Germany accepts the office of arbitrator on our northwestern boundary question. I suppose I am acting entirely in harmony with your wishes in proposing to the British legation a very early attention to the subject, in the hope that we may speedily bring the matter to a conclusion and an award. Should any delay occur, I will take care that the fault shall not be on our side. I venture to expect an award in our favor. I have watched for a quarter of a century the course of this negotiation. In all that time the present administration is the first that has taken the subject in hand from a right point of view, and if a favorable award is obtained it will be mainly due to the form of arbitration which you established by the treaty of Washington.

I remain, &c.,

GEO. BANCROFT.

CORRESPONDENCE BETWEEN THE DEPARTMENT OF STATE AND THE
GERMAN LEGATION AT WASHINGTON.

No. 180.

Mr. Fish to Baron Gerolt.

DEPARTMENT OF STATE,

Washington, November 21, 1870.

The undersigned, Secretary of State of the United States, duly received the note of the 4th instant, with the accompanying documents addressed to him by Baron Gerolt, envoy and minister plenipotentiary of the North German Union, relative to intercourse between the diplomatic representatives in Paris of the governments of neutral states and their respective governments. In that communication it is assumed that, Paris being in a state of siege by the German forces, the latter have a belligerent right under the public law to cut off all intercourse between the diplomatic representatives of foreign powers there and their governments at home; or, if such intercourse should be allowed at all, that the besieging forces may prescribe the conditions upon which it shall be permitted. The right seems further to be claimed upon the alleged impropriety of diplomatic agents continuing to reside in a beleaguered city which contains persons in authority whose title thereto has not been recognized by the assailant.

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The undersigned, after a careful consideration of the subject, and with every disposition to acknowledge the just and necessary belligerent rights of the blockading force, cannot acquiesce in the pretension set up on behalf of that force. It is true that, when such a force invests a fortified place with a view to its reduction, one of the means usually relied upon for that purpose is the interruption of ordinary communication by messengers or by letters. This is acknowledged to be not only a belligerent right, but also one incident to the actual sovereignty over the enemy's territory occupied by the assailant adjacent to the blockaded place. Paris, however, is the capital of France. There the diplomatic representatives of neutral states had their official residence prior to the investment. If they think proper to stay there while it lasts, they must expect to put up with the inconveniences necessarily incident to their choice. Among these, however, the stopping of communication with their governments cannot be recognized. The right of embassy to a belligerent state is one which it is both the duty and the interest of its enemies to acknowledge, and to permit the exercise of in every usual or proper way. If this right should be denied, or unduly curtailed, wars might be indefinitely prolonged, and general peace would be impracticable.

The privilege of embassy necessarily carries with it that of employing messengers between the embassy and its government. This is a privilege universally recognized by publicists. There is no exception or reservation made for the case of an embassy having its abode in a blockaded place. Indeed, the denial of the right of correspondence between a diplomatic agent in such a place and his government seems tantamount to insisting that he cannot elect to be a neutral, but must be regarded as an adversary if he continues to stay there, especially when the legitimacy of the authority of those directing the resistance is denied by the other assailant.

The opposite course, which it has suited the convenience of some neutral government to adopt, is obviously liable to be construed, partly, at least, the occasion of withholding the privilege of correspondence. Should this be a correct view of the case, no independent state, claiming to be a free agent in all things, could, in self-respect, acquiesce in a proceeding actuated by such a motive. The undersigned does not charge the government of the North German Union with being so actuated, but deems himself warranted in thus referring to the point, as it is adverted to by the representative of that government both at Berlin and before Paris.

The undersigned is consequently directed to claim that the right of correspondence between the representatives of neutral powers at Paris and their governments is a right sanctioned by public law, which cannot justly be withheld without assigning other reasons therefor than those which have hitherto been advanced. The burden of proof of the sufficiency of those reasons in furtherance of the belligerent rights of the assailant must be borne by him. While, however, the undersigned is directed to claim the right as due to all neutrals, he will not omit to acknowledge the partial exception made in favor of the minister of the United States for the reasons assigned.

The undersigned avails himself of this occasion to renew to Baron Gerolt the assurance of his very high consideration.

HAMILTON FISH.

No. 181.

Baron Gerolt to Mr. Fish.

LEGATION OF NORTH GERMANY,
Washington, January 14, 1871. (Received January 14.)

SIR: I have the honor of inclosing the translation of a telegram, received at a late hour last night, from Count Bismarck.

With the assurances of my highest consideration, I remain your most obedient servant,

FR. V. GEROLT.

Hon. HAMILTON FISH,
Secretary of State, &c., &c.

[Translation.]

To the Northern German Legation, Washington, D. C.:

The treatment of German merchant ships by France obliges us to revoke the declaration made by us at the beginning of the war, "exempting all French merchant vessels, not carrying contraband of war articles, from capture by our war-vessels."

As neutral property may have been shipped on board of French vessels in confidence of the above declaration, the new measure will not be carried into effect until four weeks after this date.

BISMARCK.

VERSAILLES, *January 13.*

No. 182.

Mr. Fish to Baron Gerolt.

DEPARTMENT OF STATE,
Washington, January 14, 1871.

The undersigned, Secretary of State of the United States, has the honor to acknowledge the receipt of the note of Baron Gerolt, the envoy and minister plenipotentiary of the North German Union of the 14th instant, inclosing a translation of a telegram from Count Bismarck, of the 13th instant, to the North German legation at Washington, in the following words:

The treatment of German merchant ships by France obliges us to revoke the declaration made by us at the beginning of the war, exempting all French merchant vessels, not carrying contraband of war articles, from capture by our war-vessels.

As neutral property may have been shipped on board of French vessels in confidence of the above declaration, the new measure will not be carried into effect until four weeks after this date.

In informing Baron Gerolt that the information so communicated will be made public, the undersigned has the honor further to express the great regret with which the Government of the United States receives the information that circumstances have arisen which in the opinion of the government of North Germany justifies its withdrawal from a position which the Government of the United States regarded with very great satisfaction, as taken in the best interests of civilization.

The telegram from Count Bismarck which was communicated to the

undersigned by Baron Gerolt on the 19th day of July last was in the following language:

Private property on high seas will be exempted from seizure by His Majesty's ships, without regard to reciprocity.

The notice now communicated to the undersigned by Baron Gerolt relates in terms to French merchant vessels, and makes no mention of American merchant vessels. To avoid misapprehension and future difficulty, the undersigned has the honor to inquire of Baron Gerolt whether the merchant vessels of the United States are to continue exempt from seizure, or whether they are to be considered at the expiration of the term named as relegated to their rights under the 13th article of the treaty of 1799 between the United States and Prussia, which was revived by the 12th article of the treaty of 1828.

ARTICLE XIII.

And in the same case of one of the contracting parties being engaged in war with any other power, to prevent all the difficulties and misunderstandings that usually arise respecting merchandise of contraband, such as arms, ammunition, and military stores of every kind, no such articles carried in the vessels, or by the subjects or citizens of either party, to the enemies of the other, shall be deemed contraband, so as to induce confiscation or condemnation and a loss of property to individuals. Nevertheless, it shall be lawful to stop such vessels and articles, and to detain them for such length of time as the captors may think necessary to prevent the inconvenience or damage that might ensue from their proceeding, paying however a reasonable compensation for the loss such arrest shall occasion to the proprietors; and it shall further be allowed to use in the service of the captors the whole or any part of the military stores so detained, paying the owners the full value of the same, to be ascertained by the current price at the place of its destination. But in the case supposed of a vessel stopped for articles of contraband, if the master of the vessel stopped will deliver out the goods supposed to be of contraband nature, he shall be admitted to do it, and the vessel shall not in that case be carried into any port, nor further detained, but shall be allowed to proceed on her voyage.

All cannons, mortars, fire-arms, pistols, bombs, grenades, bullets, balls, muskets, flints, matches, powder, saltpeter, sulphur, cuirasses, pikes, swords, belts, cartouch boxes, saddles, and bridles, beyond the quantity necessary for the use of the ship, or beyond that which every man serving on board the vessel, or passenger, ought to have; and in general whatever is comprised under the denomination of arms and military stores, of what description soever, shall be deemed objects of contraband.

The undersigned, &c.,

HAMILTON FISH.

No. 183.

Baron Gerolt to Mr. Fish.

LEGATION OF THE NORTH GERMAN UNION,
Washington, January 16, 1871. (Received January 17.)

The undersigned, envoy and minister plenipotentiary of the North German Union, has the honor to acknowledge the receipt of the note of the Hon. Hamilton Fish, Secretary of State of the United States, bearing date of the 14th instant, in which, in reply to the communication of the undersigned of the 13th instant, in relation to the revocation of the declaration made by the North German Union at the commencement of the war with France, for the protection of all private property at sea, the honorable Secretary expresses the deep regret of the Government of the United States that the North German government has thought itself justified, by circumstances of subsequent occurrence, in abandoning a position taken for the best interests of civilization, which

had been hailed by the Government of the United States with so great satisfaction.

The undersigned thinks it his duty to remind the Hon. Hamilton Fish that that position of North Germany, and the recognition of the freedom of all private property at sea, with the exception of contraband articles, was formerly taken, and maintained by Prussia and Austria in their war with Denmark, as well as in the war between Prussia and Austria, and that only extraordinary and unforeseen circumstances in the present war between Germany and France could have induced the German government to abandon that position, since French vessels of war, under the direction of the present authorities of France, have, in violation of all international law, captured and burned German vessels upon the high seas, within the jurisdiction of neutral powers, of which the undersigned had the honor to inform the honorable Secretary of State on the 15th of December last, by reading the dispatch of Count Bismarck in relation thereto. In regard to the inquiry contained in the note of the Hon. Hamilton Fish of the 14th instant, whether the merchant vessels of the United States, after the inauguration of the new measure, would still be protected from capture, as before, and would be treated according to article XII of the treaty of 1828 between Prussia and the United States, the undersigned can only express his conviction that all rights which are guaranteed by treaty to the United States by the North German government will remain intact, as heretofore. Still, in order to avoid any misunderstanding on the subject, the undersigned thinks it his duty to express the opinion that in all cases contraband articles cannot be excluded from the provisions of the above-mentioned article XII, and that if in the telegram mentioned by the Honorable Secretary of State from Count Bismarck, dated July 19, 1870, viz, "Private property on the high seas will be exempted from seizure by His Majesty's ships without regard to reciprocity," articles contraband of war are not excepted there from, as was done in the last telegram of the 13th instant, *that* exception might be considered as a matter of course, especially since in article XIII of the treaty of 1799, which was superseded by the treaty of 1828, the contraband articles are enumerated, which are to be treated according to the provisions of the treaty.

The undersigned will, however, hasten to obtain from his Government a distinct declaration with regard to the words, and the sense of the aforesaid telegram of July 19, 1870, and he avails himself of this occasion, &c.

FR. v. GEROLT.

No. 184.

Mr. Fish to Baron Gerolt.

DEPARTMENT OF STATE,
Washington, January 19, 1871.

The undersigned, Secretary of State of the United States, has the honor to acknowledge the receipt of the note which Baron Gerolt, envoy and minister plenipotentiary of the North German Union, did him the honor, on the 16th instant, to address to him upon the revocation of the declaration made by the North German Government at the commencement of the war with France, for the protection of all private property at sea. Baron Gerolt apparently labors under a mistake in supposing

that the undersigned, in his note of the 14th instant, inquired whether the merchant vessels of the United States would, after the inauguration of the new measures, still be protected from capture as before, and would be treated according to the provisions of the treaty between Prussia and the United States which was cited by the undersigned.

The undersigned was unfortunate in the use of language in his note of the 14th instant, if it is capable of being construed as implying any doubt of the purpose of the government of His Majesty the King of Prussia, or of the government of North Germany, to observe faithfully its treaty obligations toward the United States. The telegram of Count Bismarck communicated to the undersigned by Baron Gerolt on the 14th instant, related to terms to French vessels alone.

It was the object of the undersigned to ascertain whether the vessels of the United States were to continue at liberty to transport contraband of war without liability to seizure, in accordance with the terms of the notice communicated to the undersigned on the 19th of July last. If it should appear that it was the purpose of the North German government to withdraw the privilege so conceded, it would follow that the vessels of the United States would be remitted to the rights secured to them by the treaty cited in the undersigned's note of the 14th instant. The undersigned hopes to receive at an early day information on this subject which may be made public.

The undersigned observes with some surprise that Baron Gerolt thinks that it might be considered as a matter of course that articles contraband of war were not intended to be embraced among the items of "private property on the high seas to be exempted from seizure," under the notice of the 19th of July last. The undersigned takes the liberty to refer Baron Gerolt to the very precise language in the telegram of Count Bismarck, and to say that it seems to the undersigned scarcely probable or even possible that a statesman so distinguished as Count Bismarck, and so accurate in the choice of words to express his meaning, would have failed to set forth so important an exception, had he not intended to extend the exemption from seizure to all private property.

The undersigned has the honor, &c.,

HAMILTON FISH.

No. 185.

Baron Gerolt to Mr. Fish.

[Translation.]

LEGATION OF THE NORTH GERMAN UNION,
Washington, January 20, 1871. (Received January 21.)

The undersigned, envoy and minister plenipotentiary of the North German Union, has had the honor to receive the note of the Hon. Hamilton Fish, Secretary of State of the United States, of the 19th instant, and has thereby seen, with regret, that his understanding of the meaning of the telegram from the chancellor of the Union, of July 19, 1870, mentioned in his note of the 16th instant, does not agree with the Hon. Hamilton Fish's interpretation of the same, and that he does not seem to have correctly understood the inquiry made in the note of the 14th instant.

The undersigned has already, on the 16th instant, reported this matter to his government, and asked for instructions concerning the inter-

pretation of the two telegrams from Count von Bismarck, the one of July 19, of last year, and the other of the 13th of the present month, and has requested that a reply may be sent to him by telegraph.

The undersigned therefore hopes soon to be enabled to answer the inquiry made by the honorable Secretary of State in his note of the 19th instant, and he avails himself of this occasion, &c.

FR. v. GEROLT.

No. 186.

Baron Gerolt to Mr. Fish.

LEGATION OF THE NORTH GERMAN UNION,
Washington, February 9, 1871. (Received February 10.)

The note of the Hon. Hamilton Fish, of the 9th of January last, to the undersigned, in relation to the treatment of American merchant vessels by North German vessels of war after the revocation of the declaration of the North German government of July 19, 1870, asked:

"Whether vessels of the United States were to continue at liberty to transport contraband of war without liability to seizure, in accordance with the terms of the notice communicated to the undersigned on the 19th of July last?"

The undersigned therefore inquired of his government concerning this matter on the 20th of January last, and has this day received the following telegraphic dispatch from Count Bismarck:

"Our action in relation to American vessels is, of course, governed by the treaty of 1799. A written reply will be sent."

This reply will doubtless contain a full discussion of the question raised by the honorable Secretary of State, and the undersigned will not fail to communicate the same to the honorable Secretary in due time.

The undersigned has the honor, &c.

FR. v. GEROLT.

No. 187.

Baron Gerolt to Mr. Fish.

LEGATION OF THE NORTH GERMAN UNION,
Washington, February 16, 1871. (Received February 17.)

The undersigned, envoy and minister plenipotentiary of the North German Union, has the honor, in accordance with instructions received, most respectfully to transmit to the Hon. Hamilton Fish, Secretary of State of the United States, copies of the following documents:

1st. A letter addressed by the Swiss envoy, Kern, and several other diplomatic agents, formerly accredited in Paris, under date of the 13th ultimo, to the chancellor of the Union, in which the adoption of measures is proposed which may allow the countrymen of the signers to go with their property during the siege to a place of safety.

2d. The reply thereto of Count von Bismarck, dated the 17th ultimo.

The undersigned gladly avails himself of this additional occasion to renew to the Hon. Hamilton Fish the expression of his most distinguished consideration.

FR. v. GEROLT.

Hon. HAMILTON FISH,
Secretary of State of the United States, Washington, D. C.

A 377.

COUNT: For several days large numbers of shells, from the localities occupied by the besieging troops, have fallen in the interior of the city of Paris. Women, children, and invalids have been struck. Among the victims, several belong to neutral states. The lives and property of persons of every nationality established at Paris are constantly jeopardized.

These facts have occurred without any previous notice having been given to the undersigned, (most of whom have, at the present time, no mission save that of watching over the safety and interests of their countrymen,) to enable them to warn their countrymen of the dangers with which they are threatened, and from which motives of *vis major*, particularly the difficulties placed in the way of their departure by the belligerents, have prevented them from escaping.

In the face of events of so grave a nature, the members of the diplomatic corps at Paris, who have been joined by the undersigned members of the consular corps, in their respective embassies and legations, have thought necessary, in view of their responsibility to their governments, and with a keen sense of the duties incumbent upon them toward their countrymen, to come to an understanding in relation to the determination to be adopted.

These deliberations have led the undersigned to the unanimous resolution of asking that, in accordance with the recognized usages and principles of international law, measures may be taken to permit their countrymen to retire to a place of safety with their property.

Confidently expressing the hope that your excellency will be pleased to intervene near the military authorities for the furtherance of their request, the undersigned avail themselves of this occasion to beg you to accept the assurances of their very high consideration.

Paris, January 13, 1871.

KERN,

Minister of the Swiss Confederation.

BARON ADELSWARD,

Minister of Sweden and Norway.

COUNT MOLTKE HVITFELD,

Minister of Denmark.

BARON BEYENS,

Minister of Belgium.

BARON DE ZUYLEN DE NYEVELT,

Minister of the Netherlands.

E. B. WASHBURNE,

Minister of the United States.

BALLIVIAN Y ROXAS,

Minister of Bolivia.

DUKE D'ACQUAVIVA,

Chargé d'Affaires of San Marino and Monaco.

HENRIQUE LUIZ RATTON,

Chargé d'Affaires of His Majesty the Emperor of Brazil.

JULIO THIRION,

Chargé d'Affaires p. i. of the Dominican Republic.

HUSNY,

The Military Attaché and Chargé d'Affaires of Turkey.

LOPEZ DE AROSENUNA,

Chargé d'Affaires of Honduras and Salvador.

C. BONIFAZ,

Chargé d'Affaires of Peru.

BARON G. DE ROTHSCHILD,

Consul General of Austria-Hungary.

BARON TH. DE TOELKERSAHM,

Consul General of Russia.

GEORGES A. VUZOS,

The Acting Vice-consul of Greece.

JOSÉ MA. CALVO Y TERUEL,

Consul of Spain.

L. CERRUTI,

Consul General of Italy.

JOAQUIM JONAS [the rest illegible,]

Consul General of Portugal.

His Excellency COUNT BISMARCK-SCHÖNHAUSEN,

Chancellor of the North German Confederation, Versailles.

VERSAILLES, January 17, 1871.

MR. MINISTER: I have had the honor to receive the letter of the 13th instant, signed by yourself and the American envoy, together with various other diplomats formerly accredited in Paris, wherein the request is made to me, with an appeal to the law of nations, to intervene near the military authorities to the end that measures may be taken to permit the countrymen of the signers to retire with their property to a place of safety during the siege which has been commenced.

I regret my inability to reach the conviction that the request which the signers have done me the honor to address me, is based upon international law.

The unusual measure, which stands alone in the history of modern times, of changing the capital of a great country into a fortress, and its environs, with nearly three millions of inhabitants, into a fortified camp, has certainly been followed by a very unusual and lamentable state of things. For this those persons are responsible, who have selected this capital and its environs as a fortress and field of battle, but it must be borne in every fortress by those who voluntarily take up their abode therein and retain it during the war. Paris is the most important stronghold in the country, and France has assembled her principal armies therein; these attack the German forces from their secure position in the midst of the population of Paris, by means of sallies and artillery-fire. In view of these facts, it cannot be expected that the German commanders should refrain from attacking the stronghold, or from conducting the attack in a manner suited to the object of every siege.

Whatever could be done to preserve the neutral portion of the population of Paris from the ills and dangers of the siege, has been done by the Germans. By a circular of the secretary of the state, Mr. Von Thile, of the 26th of September last, the envoys accredited in Berlin, and by my communication of October 10, his eminence the Papal nuncio and the other members of the diplomatic corps still remaining in France at that time, were reminded that the inhabitants of Paris would thenceforth be subject to the course of military events. In a second circular, of October 4, reference was made to the consequences which must arise to the non-fighting population, from a resistance carried to the utmost; and I communicated the contents of this circular, on the 29th of the same month, to the envoy of the United States in Paris, requesting him to bring the same to the notice of the other members of the diplomatic corps. There has, therefore, been no lack of warning to neutrals to leave the besieged city, although the issue of such warnings and the permission to leave the city are dictated by a feeling of humanity, and by consideration for the citizens of neutral and friendly nations, but by no means by a principle of international law. Still less is the obligation, founded upon law or custom, of giving previous notice to the besieged of the particular military operations which are contemplated, as I had the honor to state, in reference to the bombardment, in my letter addressed on the 26th of September last, to Mr. J. Favre. It was to be expected that the city would be bombarded if resistance was continued. Vattel says, although he had no instance of a fortified city like Paris before his eyes, with such great armies and munitions of war:

"The destruction of a city by bomb-shells and hot shot is an extreme measure which should not be adopted without very strong reasons. But it is nevertheless authorized by the laws of war, when it is otherwise impossible to reduce an important place on which the success of the war may depend, or which serves to inflict dangerous blows upon us."

A well-founded objection to the bombardment of Paris is so much the less admissible, as it is not our intention to destroy the city, as Vattel considers allowable, but only to render the strong central position untenable, in which the French armies prepare their attacks upon the German troops, and in which they find shelter after having accomplished the same.

Finally, I take the liberty of reminding your excellency, and the other signers of your favor of the 13th instant, that in accordance with the above-mentioned notifications and warnings from us, all neutrals who desired it were allowed, for months, to pass through our lines without any conditions save the establishment of their identity and nationality, and that up to this day, not only have members of the diplomatic corps, but also other neutrals, when this was requested by their governments or envoys, received permits to pass our outposts.

Many of the gentlemen who signed the letter of the 13th instant were notified by us months ago that they could pass our lines, and they have long been in possession of the permission of their governments to leave Paris. Hundreds of citizens of neutral states are in a similar situation, men for whom permission to depart has been asked of us by their envoys. We have no official information why these persons have made no use of the authorization to leave which was so long since granted to them, and of which it has so long been in their power to avail themselves. I may, however, conclude, from reliable private correspondence, that the French authorities have for a long time refused permission to leave to the citizens of neutral states, and to the diplomatic agents of the same. If this is the case, it would be proper for those forced to remain in Paris to present their protest to the authorities there. At all events, I am justified,

in view of the foregoing, in contradicting so far as the German army is concerned the assertion made in the letter of the 13th instant that neutrals have been prevented from escaping from the dangers by the difficulties placed in their way by the belligerents. The permission granted to the members of the diplomatic corps we shall continue, as a matter of international courtesy, however difficult and annoying this may be in the present state of siege. In order to free your numerous countrymen from the dangers which are inseparably connected with a state of siege, I have now, to my regret, no means left save the taking of Paris. We are in the painful situation of not being able to subordinate our military action to our feelings of compassion for the sufferings of the non-fighting population. Our course is distinctly marked out to us by the law of war and by the duty of protecting the German army against new attacks from the army of Paris.

That the German artillery does not intentionally fire upon buildings designed to shelter women, children, and invalids, it is scarcely necessary to assert, in view of the conscientiousness with which the Geneva convention has been observed by us, even under the most difficult circumstances. On account of the style of architecture in the city, and the distance from which the batteries still fire, a casual injury to such buildings is with difficulty avoided, as is also the wounding or killing of non-combatants, who, in every siege, are greatly to be pitied. The fact that painful and, by us, deeply-regretted events must be connected with a siege in a city like Paris to a greater extent than in other strongholds, should have deterred the authorities of the city from fortifying or from making an obstinate defense. But no nation can be permitted to make war upon its neighbors, and, in the course of the same, to endeavor to protect its main stronghold by pointing to the unarmed and neutral inhabitants residing therein, and to the hospitals, in the midst of which the armed forces, after every attack, may seek shelter and prepare for new attacks.

I most respectfully request your excellency to be pleased to bring this reply to the notice of your fellow-signers of the letter of the 13th instant, and to be pleased to accept the renewed assurance of my most distinguished consideration.

His excellency the envoy of the Swiss confederation, MR. KERN, *Paris*.

V. BISMARCK.

No. 188.

Count Bismarck to Baron Gerolt.

[Translation.]

VERSAILLES, *February 28, 1871.*

(Received from Baron Gerolt March 21.)

Mr. Bancroft has had the kindness to communicate to Mr. von Thile an extract from a dispatch of Mr. Fish, Secretary of State, whereby he is directed to present the congratulations of His Excellency the President on the union of the German States under a common constitution and on the renewal of the empire in Germany. I have brought this communication to the notice of His Majesty the Emperor and King, who has received it with lively satisfaction. He directs you to thank His Excellency the President, and to assure him that he also feels confident that the German Empire, re-established upon a federative basis, will afford a guarantee for the peace of the world. His Majesty sees an indication of the fulfillment of this hope in the friendly relations which have always uninterruptedly existed between Germany and America, and in the congratulations which have just been offered by His Excellency the President.

You will, in accordance with this most high order, express yourself to Mr. Fish in the sense of this dispatch, and hand him a copy of the same, if he desires it.

VON BISMARCK.

No. 189.

Baron Gerolt to Mr. Fish.

[Translation.]

LEGATION OF THE NORTH GERMAN UNION,
 Washington, March 1, 1871. (Received March 2.)

With reference to his note of the 9th of February last in regard to the treatment of articles contraband of war which are found on board of American vessels during the war between Germany and France, the undersigned, envoy and minister plenipotentiary of the North German Union, has the honor to transmit to the Hon. Hamilton Fish, Secretary of State of the United States, a copy of the dispatch which the Chancellor of the Union, Count von Bismarck, has prepared in reply to the notes (of the 14th and 19th of January last) of the honorable Secretary of State to the undersigned in relation to this matter. The undersigned avails, &c.

FR. v. GEROLT.

Count Bismarck to Baron Gerolt,

[Translation.]

VERSAILLES, February 9, 1871.

With your excellency's kind reports of the 16th and 20th ultimo I have had the honor to receive a copy of the correspondence between the Secretary of State, Mr. Fish, and yourself, in relation to the treatment of private property at sea. In amplification of my telegraphic reply of the 8th instant I have most respectfully to say as follows:

When I sent my telegram of the 19th of July last, viz:

"Private property on high seas will be exempted from seizure by His Majesty's ships without regard to reciprocity,"

I supposed that it would be understood as it could only be intended, according to international usages, and particularly according to the principles which have hitherto been advocated by the United States—that is to say, as the reply to a definite question long since propounded in the writings of publicists and in diplomatic correspondence. I think myself all the more authorized to entertain this supposition, as the Government of the United States itself has transferred the question from publicistic to diplomatic ground. The cabinet of President Pierce presented two principles to the consideration of all maritime powers after the outbreak of the Crimean war, viz, that the neutral flag should cover peace-property, *except contraband of war*, and that all neutral property on board of merchant vessels of belligerent states, *except contraband of war*, should not be liable to condemnation. It was on account of this initiative that the powers represented at the Paris congress made the treatment of private property at sea the object of a deliberation and resolution, and adopted both principles. The Government of the United States having been asked to give its acquiescence to the four points of the Parisian declaration, declared its readiness to do so only on condition that the property of subjects of a belligerent state should be exempt from capture at sea by the war-vessels of the other party, *contraband of war excepted*. I take the liberty of referring to these occurrences because I had them in mind in writing my telegram of the 19th of July last, and they explain why I did not particularly mention the presumptive exception of contraband of war in a telegram designed for your instruction. That the North German Union has renounced the right of capture of war material, which is to be conveyed in French or neutral vessels to the enemy, has not been inferred by neutral states from the communication of the same import which has been sent to them. They have therein seen only the proclamation of the principle of "the freedom of private property at sea," to the extent to which this principle, at the instance of the United States, has occupied public opinion on both sides of the ocean since the Crimean war.

We regret that the course of the French war-navy has rendered it impossible for us longer to carry out the intention which we expressed at the beginning of the war. If the American Government could successfully use its influence with that of France so the French cruisers would spare private property, but especially that they would no

longer destroy German merchant vessels, but take their prizes into a port and subject them to the decision of a court, we would be willing, in return for such a concession in the interest of the advancement of international questions relating to private property at sea, to revoke the order for the capture of such French merchant vessels as have no articles contraband of war on board. Our action towards American vessels will, as a matter of course, be in accordance with the provisions of the treaty of 1799, and this is a question which is independent of the instructions which German vessels of war receive for their guidance during the continuation of a war with other states.

Your excellency will have the kindness to send to the Secretary of State, Mr. Fish, a copy of this dispatch.

V. BISMARCK.

No. 190.

Mr. Fish to Baron Gerolt.

DEPARTMENT OF STATE,
Washington, March 9, 1871.

The undersigned has the honor to acknowledge the receipt of the note of Baron Gerolt of the 1st instant, with which the Baron did him the honor to transmit a copy of the dispatch of the Chancellor of the North German Union dated 9th February last.

The termination of the war in which the North German Union has lately been engaged happily removes from the questions to which the Chancellor's dispatch and the correspondence between the undersigned and Baron Gerolt alluded to therein relate, any present practical significance.

The undersigned notes, however, the qualification which it appears was intended to be attached to the decree of the 19th of July last, viz, "Private property on the high seas will be exempted from seizure by His Majesty's ships without regard to reciprocity."

And with reference to the concluding passage of Count Bismarck's dispatch of 9th of February, the undersigned takes pleasure in saying that the confidence of this Government never allowed a doubt that the action of North Germany toward American vessels would be in accordance with the provisions of existing treaties.

The undersigned avails, &c.

HAMILTON FISH.

No. 191.

Baron Gerolt to Mr. Fish.

LEGATION OF THE NORTH GERMAN UNION,
Washington, June 23, 1871. (Received June 24.)

SIR: I have the honor to inform you that, according to a telegram received from the acting chancellor of the German Empire, Mr. Von Schlozer, late minister resident of the North German Union at the republic of Mexico, has been appointed my successor to represent the government of His Majesty the Emperor of Germany near the Government of the United States, and that at the same time I have been allowed to leave Washington before the arrival of my successor, after having presented to you the secretary of this legation, Mr. Von Alvensleben, as chargé d'affaires *ad interim*.

I have fixed my departure at the beginning of next month, but having been informed that you will leave Washington for some time, and that I may not be allowed to take my leave from his Excellency the President during his absence from this city, I respectfully request you to present to his Excellency the sentiments of my highest respect and of my sincere wishes for his welfare and for the happiness of the people and the many friends of this country, where I had the honor to represent my august sovereign and the interests of my country for the best part of my life.

I also avail myself of this occasion to renew to you the assurances of my highest consideration.

FR. V. GEROLT.

No. 192.

Mr. Fish to Baron Gerolt.

DEPARTMENT OF STATE,
Washington, June 26, 1871.

SIR: I have the honor to acknowledge the receipt of your note of the 23d instant, announcing that Mr. Von Schlozer, late minister resident of the North German Union in Mexico, has been appointed your successor to represent the government of his Majesty the Emperor of Germany near this Government, and that, having received permission for that purpose, you intend to leave here prior to the arrival of Mr. Von Schlozer, after having presented Mr. Von Alvensleben as chargé d'affaires *ad interim*.

In reply, I have the honor to express, on behalf of the President, his disappointment that, owing to his absence from the city, he will be obliged to forego the usual ceremony of parting with you. He, however, directs me to express his poignant regret that you should relinquish the high trust which you have so long, so faithfully, and so honorably discharged in this capital, a regret which will be deeply shared by your many friends. His best wishes will attend you. I shall not fail to make known to him the kind sentiments which you express towards him and toward the people of this country—sentiments which I am sure that he cordially reciprocates in respect to the Emperor and people of Germany. If you will call here at twelve o'clock to-morrow, I will receive you, in order that you may present Baron Alvensleben.

I avail myself of this occasion, &c.,

HAMILTON FISH.

No. 193.

Baron Gerolt to Mr. Fish.

[Translation.]

LEGATION OF THE NORTH GERMAN UNION,
Washington, June 26, 1871. (Received June 27.)

The undersigned, envoy and minister plenipotentiary of the North German Union, has the honor, in accordance with instructions received,

most respectfully to transmit to the Hon. Hamilton Fish, Secretary of State of the United States, a copy of a dispatch of the 19th ultimo, whereby his highness the chancellor of the German Empire informs the maritime powers of the conduct of the French war-navy toward the German corvette *Augusta*, in the Spanish port of Vigo, of the opinion entertained by the Imperial German government of this conduct, as well as of the reasons for which said government did not make said conduct the subject of a protest.

The undersigned gladly avails himself of this additional occasion to renew to the honorable Secretary of State the assurances of his most distinguished consideration.

FR. v. GEROLT.

[Translation.]

BERLIN, *May 19, 1871.*

According to the reports (the truth of which has been otherwise confirmed) of the commander of the German corvette *Augusta*, the French war-navy observed, while the said vessel was in the Spanish port of Vigo, in January last, a course of conduct toward her which was at variance with unquestionable principles of international law.

The French iron-clad frigate *Heroine*, having entered the port of Vigo on the 13th of January, and having approached so near to the *Augusta* (with the unmistakable design of reconnoitering) that the latter was forced to draw in her anchor to sixty fathoms, ran out on the day following, not in order to put to sea, but to cast anchor within the Bay of Vigo, among the Cies Islands. She thence came farther into the harbor by night, and sent off her steam-launch to make observations. She also kept making signals from her anchorage in neutral water to several French vessels which were lying or cruising outside, of which several bore her company by turns, (one at a time.) Although the object of this spying in neutral waters was frustrated by the loyal and firm enforcement of the neutrality laws on the part of the Spanish government, and by the signing of a truce on the 28th of the same month, there was reason for the allied German governments to bring the conduct of the French vessels of war, which was in violation of the law of nations, to the knowledge of maritime powers, which, in every naval war, have an equal interest in having the rights of neutrals respected, and the presumptions of the belligerents, which are based upon them, not deceived. In order not to anticipate the royal Spanish government as the one principally interested, I addressed the inquiry to the cabinet at Madrid whether it proposed to issue a proclamation in defense of its territorial rights. I was informed, in reply, that the Spanish government had entered into correspondence with the delegation of the Government of the national defense at Bordeaux, and felt satisfied in consequence of a declaration which had been received from the same, which left the right inviolate in principle, the observance of which in fact (recognition of which?) the Spanish government had obtained. Since, meanwhile, the conclusion of a peace has taken place, I think proper to refrain from making a protest. In order, however, that no inferences may hereafter be drawn from our silence, I take the liberty of bringing the conduct of the French war-navy toward the *Augusta*, our opinion of this conduct, and our reasons for not making it a subject of protest, to the knowledge of maritime nations. I most respectfully beg your excellency to be pleased to send a copy of this dispatch to the minister of foreign affairs.

V. BISMARCK.

GREAT BRITAIN.

No. 194.

Mr. Moran to Mr. Fish.

No. 120.]

LEGATION OF THE UNITED STATES,
London, December 7, 1870. (Received December 22.)

SIR: I have the honor to state that Mr. Motley retired to-day from this mission, and, in accordance with the instructions contained in your dispatch No. 285 to him, placed me in charge of the legation, having previously notified Earl Granville that he had been instructed so to do on taking leave of Her Majesty's government.

I have accordingly entered upon the discharge of the duties of the post, and I beg to express through you to the President my sincere thanks for this high proof of his confidence, and to assure him and you that I shall endeavor, while holding the responsible position, to acquit myself so as to merit his and your approval.

I have, &c.,

BENJAMIN MORAN.

No. 195.

Mr. Moran to Mr. Fish.

No. 123.]

LEGATION OF THE UNITED STATES,
London, December 8, 1870. (Received December 22.)

SIR: In connection with Mr. Motley's dispatches Nos. 517 and 519, I have now the honor to inclose herewith copies extracted from The Daily News and Times, in English and French, of Prince Gortchakoff's reply, dated the 20th of November, to Earl Granville's note of the 31st October, on the subject of the revision of the treaty of Paris of 1856, together with copy of Earl Granville's answer, dated the 28th November.

I have, &c.,

BENJAMIN MORAN.

[From the London Daily News, Friday, December 2, 1870.]

THE RUSSIAN QUESTION—PRINCE GORTCHAKOFF'S REPLY TO LORD GRANVILLE—FROM OUR SPECIAL CORRESPONDENT BY SUBMARINE TELEGRAPH.

ST. PETERSBURG, *December 1—11.15 A. M.*

The following is the full text of Prince Gortchakoff's reply to Lord Granville, being a dispatch addressed to Baron Brunnow, dated Tsarskoe Selo, 8th (20th) November, 1870:

"MONSIEUR LE BARON: The ambassador of England has read and left with me a copy of Lord Granville's dispatch in reply to our communication of October 19. I hastened to submit it to His Majesty the Emperor. Our august master was pleased to point out that it contained, in the first place, an expression of the earnest desire of the cabinet of London to preserve cordial relations between England and Russia; and secondly, an assurance that the cabinet would not have refused to enter into an examination of the results of the treaty of 1856, so far as they have been modified by circumstances. As for the question of strict right stated by Lord Granville, we have no wish to enter into any discussion, recall any precedent, cite any example. Such a

controversy would in no way promote the good understanding which we desire. Our august master had to discharge an imperious duty to his own country, without wishing to injure in any way the governments which were signatories of the treaty of 1856. On the contrary, His Imperial Majesty appeals to their sense of justice, and to their regard for their own dignity. We regret to see that Lord Granville addresses himself principally to the form of our communications. The form was not our choice. We could have asked nothing better, surely, than to attain our end by an agreement with the signatories of the treaty of 1856. But the principal secretary of state of Her Britannic Majesty well knows that the attempts made at different times to assemble the powers in a general conference, with a view to remove the causes of difficulty which disturbed the general peace, have invariably failed. The prolongation of the present crisis, and the absence of a regular government in France, postpone still further the possibility of such an agreement. Meanwhile, the position in which the treaty left Russia has become more and more intolerable. Lord Granville will agree that the Europe of to-day is very far from being the Europe which signed the treaty of 1856. It was impossible that Russia should agree to remain the only power bound indefinitely by an agreement which, onerous as it was at the time when it was concluded, became daily weaker in its guarantees. Our august master has too deep a sense of what he owes to his country to force it to submit any longer to an obligation against which the national sentiment protests. We cannot admit that the abrogation of a purely theoretical principle, to which no immediate effect is given, and which simply restores to Russia a right of which no great power could consent to be deprived, should be considered as a menace to peace; or that, in annulling one point of the treaty of 1856, there is any implication that all are annulled. The imperial cabinet never had any such intention. On the contrary, our communication of October 19 declares, in the most explicit terms, that His Majesty the Emperor fully maintains his adhesion to the general principles of the treaty of 1856, and that he is ready to come to an agreement with the signatory powers of that treaty, either to confirm its general stipulations, or to renew them, or to substitute for them any other equitable arrangement which may be thought suitable to secure the repose of the East and the equilibrium of Europe. There seems, then, to be no reason why the cabinet of London should not, if it please, enter into an explanation with the signatories of the treaty of 1856. For our part, we are ready to join in any deliberation having for its object the settlement of guarantees for the consolidation of peace in the East. We are persuaded that fresh guarantees would be found in the removal of a permanent cause of irritation between the two powers the most directly interested. Their mutual relations would be more firmly established on the basis of a good and solid understanding. You are desired, M. le Baron, to read this dispatch to Lord Granville, and to leave a copy of it with him. The principal secretary of state of Her Britannic Majesty has expressed to us the regret that he would feel if this discussion should disturb the harmony which the government of Her Majesty the Queen has striven to maintain between the two countries. Be good enough to express to his excellency how entirely his regret would be shared by the imperial cabinet. We believe that a good understanding between the two governments is exceedingly advantageous to the two countries as well as to the peace of the world. It is with lively satisfaction that we have seen our relations during late years grow more and more close and cordial. The grave circumstances in which we find ourselves at this moment seem to us to make this more desirable than ever.

"GORTCHAKOFF."

[From the London Times, Monday, December 5, 1870.]

THE TREATY OF 1856.

The following is Lord Granville's reply to the second note of Prince Gortchakoff :

Earl Granville to Sir A. Buchanan.

"FOREIGN OFFICE, November 28.

"SIR: The Russian ambassador has read and given to me a copy of a dispatch of Prince Gortchakoff of the date of 8-20th November.

"It is not necessary for Her Majesty's government to recur to the important question of international law raised by the circular of Prince Gortchakoff, as they have nothing to add to the declaration on that subject which they have already made.

"His Excellency has been good enough to appeal to my knowledge of facts which, his excellency states, prevented that consultation and agreement with other parties to the treaty which Russia would have preferred.

"I am aware that suggestions for Congresses to settle other European questions have been made and not adopted.

"It has also been stated to me that intimations have been given to some of my predecessors that, in the case of certain contingencies, which, however, have never occurred, such as the possession of the principalities by Austria, Russia would feel bound to call in question some of the provisions of the treaty of 1856. But I am ignorant of any occasion on which Russia, the party most interested, has proposed in any way to this country that a relaxation of the treaty should be taken into consideration.

"I cannot therefore admit that the Imperial government can justify this proceeding by the failure of efforts which have never been made.

"The courteous language in which Prince Gortchakoff's dispatch is written, his assurance of the manner in which he would have preferred to open this question, and his declaration of the strong desire for a confirmation of good relations between the two nations, particularly important at this time, encourage Her Majesty's government in the belief that the obstacle to such relations will be removed.

"They observe that his excellency describes the declaration which has been made by Russia as an abrogation of a theoretical principle without immediate application. If these words are to be construed into an announcement that Russia has formed and stated her own opinion of her rights, but has no intention of acting in conformity with it without due concert with the other powers, they go far to close the controversy in which the two governments have been engaged.

"Her Majesty's government have no objection to accept the invitation which has been made by Prussia to a conference, upon the understanding that it is assembled without any foregone conclusion as to its results. In such case Her Majesty's government will be glad to consider with perfect fairness, and the respect due to a great and friendly power, any proposals which Russia may have to make.

"You will read and give a copy of this dispatch to Prince Gortchakoff.

"I am, &c.,

"GRANVILLE.

No. 196.

Mr. Moran to Mr. Fish.

No. 164.]

LEGATION OF THE UNITED STATES,
London, December 30, 1870. (Received January 14, 1871.)

SIR: As illustrative of the prompt and efficient action of the British government under the foreign enlistment act of 1870, I would respectfully call your attention to the annexed extract from the Daily News of yesterday, relative to the arrest of the ship *International*, in the Thames, for having on board a submarine cable for the French government. It may not be unjust to say that a little of the same spirit during the southern rebellion would have saved much trouble and not a little feeling.

I am told that there is a movement on foot to transfer the cable to American owners and ship it in an American bottom; but so far this project has not been successful.

I have, &c.,

BENJAMIN MORAN.

[From the Daily News.]

LONDON, *Thursday, December 29.*

We are informed that the *International*, a ship having on board a sub-marine cable for the French government, has been seized on the complaint of Count Bernstorff, the Prussian ambassador, and lies in the Thames in charge of custom-house officers. The cable was manufactured by the India-rubber, Gutta-percha and Telegraph Works Company, (Limited,) of Silvertown, under a contract with M. Steenacker's director-general of telegraphs in France, to connect Dunkirk with Cherbourg, Brest, and Bordeaux. By an amendment to an act passed during the last session of Parliament, "military telegraphing" was included among the subjects with respect to which an infringement of neutrality became possible, and it is under this statute that the government found itself obliged to take notice of the information supplied by Count Bernstorff and to act upon his demand for the detention of the vessel. An application by

the company for the release of the vessel and cable has been, we understand, addressed to the proper authorities, but thus far has met with no success. As it is not denied that the cable was intended to be laid between Dunkirk and Bordeaux, and as it might, undoubtedly, be used for military purposes by the French government, the case contemplated by Parliament, in the act above referred to, was thought to have been *prima facie* made out. Count Bernstorff can have little reason to complain that, in this instance at least, the English government has not acted with promptitude and effect, if it be true, as we are assured, that within three hours from the time of filing the complaint the vessel was in custody.

No. 197.

Mr. Moran to Mr. Fish.

No. 173.]

LEGATION OF THE UNITED STATES,
London, January 5, 1871. (Received January 18.)

SIR: The appointment of General Schenck as envoy extraordinary and minister plenipotentiary to this court has been cordially welcomed by the nation at large. The press has received the announcement in a friendly manner, and I send herewith an editorial touching his mission, extracted from the Times of to-day. Judging from the tone of public opinion, he will be met in a conciliatory spirit by the government on all questions pending between the two countries.

Indeed, I think there is a sincere disposition here, on the part of both the government and the people, to bring the Alabama and the fishery questions to a friendly and satisfactory close at an early day.

I am, &c.,

BENJAMIN MORAN.

[From the London Times, January 5, 1871.]

Before the end of this month the new American minister will in all probability have reached England, and by the time Parliament has fairly set to work upon the active business of the session, he will doubtless have broached the substantive issues of his mission to Lord Granville. The irritable feelings which were prevalent three years ago in the United States have in great measure subsided. The disappointment which we, on the other hand, suffered by the unexpected rejection of the Clarendon-Johnson convention, has been healed by the lapse of time. Around us we see the horrid realities of war, the disruption of the European state system, the palsied commerce of two great nations. Although the United States are separated by a broad ocean from these melancholy spectacles, they have only to look back a few years to warnings scarcely less urgent and appalling. In spite of angry politicians and thoughtless publicists, England and America are too well convinced of the unfruitful miseries of war to challenge it rashly. Of course, the one nation as well as the other cherishes its just pride, its dignified resentment of insult, its resolution to repel dictation. But when intelligent and high-minded statesmen govern affairs, either at Washington or at Westminster, we may reasonably hope that national susceptibilities will not be rashly wounded. What is called the "Alabama question" has dragged its slow length along ever since 1863, when Mr. Adams began to remonstrate against the negligence of the British government. More than once since then we have had a glimpse of a satisfactory settlement, but we have never hitherto reached a point at which we could command a prospect more hopeful than that we have now before us. Rational discussion has done its work on both sides of the Atlantic. Here, in the beginning, we were undoubtedly somewhat cold and unyielding in our refusal to acknowledge any error. As we grew cold, the Americans grew hot. Their demands rose with their rising wrath. Mr. Reverdy Johnson's well-meant endeavors only served to disappoint just expectations on our side, and to excite a storm of unreasonable but not inexplicable anger on the part of the Americans. When the Clarendon-Johnson convention was repudiated so emphatically at Washington, it seemed imperative for this country to withdraw for the time from negotiation. The United States, in appointing Mr. Motley their minister at St. James, appeared to adopt a similar line. At all events, during Mr. Motley's tenure of office the question slept. It was re-awakened by the news of Mr. Motley's recall, and by the

somewhat threatening message of the President. The difficulty experienced in filling the vacant place added to the obscurity of the situation. Meantime, Mr. Butler blew his trumpet loudly, and many persons in the United States and in this country echoed his blatant utterances in solemn earnest.

At last we are relieved from uncertainty as to the person with whom we have to deal, if not as to the policy he brings us. General Schenck is one of the most respected politicians of the republican party in America; his position in Congress was almost unique; he was the leader of a powerful party, yet he never arrogated to himself the dictatorship which party leaders are accustomed to assume. It will not be his least recommendation in England that he has consistently and energetically opposed the extravagances of General Butler, and, as General Butler has of late been most mischievous and extravagant wherever Great Britain was concerned, we may hope that General Schenck represents an adverse influence. It is of the utmost moment for us to know what terms of negotiation, if any, he is bringing to us. According to our correspondent at Philadelphia, he is ready to concede much, and to demand terms which our government may, at all events, legitimately debate. An eminent German jurist some months ago traced the lines for a settlement of the Anglo-American claims, and it is said that General Schenck adopts this statement of the issues as the basis of arbitration which he is prepared to suggest in England. It may be that he is not empowered to suggest any such basis, and even if he were, we should be justified, after the experience of the Clarendon-Johnson convention, in dealing cautiously with the proposals of an American minister until we know whether or not they may be ratified by the American people.

Supposing, however, that the rumors which reach us from Washington are correct, and that General Schenck is authorized to treat upon a basis similar to that laid down by Professor Bluntschli, of Berlin, we have yet to pause before we accept the decision of a German jurist on this grave international difficulty. Was Dr. Bluntschli's conclusion arrived at after hearing an *ex parte* statement, or would it have been modified if the arguments on the English side had been fully and officially presented? These are points which may yet be raised; but Dr. Bluntschli's leading decisions, if fairly taken as the bases of arbitration in matters of detail, evade the main objections which prevented former solutions of this difficulty. In effect, if we believe the story we have heard of General Schenck's mission, the American Government is now content to abandon the preposterous claim for "consequential damage," and the unintelligible demand for a "formal" apology. Our alleged delinquency in prematurely recognizing the South is altogether set aside, and all the horrible sequence of calamity conjured up in Mr. Sumner's famous speech is put out of sight. The British government, according to this story, will be asked to pay for the damage done to American shipping by the Alabama, which escaped, through our negligence and the imperfection of our municipal law, from an English port. Furthermore, we are to be called upon to recoup the expenditure of the United States Government upon naval preparations for the repression of the Alabama's depredations. We are to be taxed with interest on this loss and outlay since the time of its accruing. Finally, we are to be asked to join with the American Government in a declaration "recognizing as of perpetual obligation the rules of international law, of the violation of which the payment of the money is an implied admission." We cannot assert that any of these points is so unreasonable as not to be fairly matter for diplomatic discussion; indeed, all of them might properly be considered by an equitably constituted arbitral tribunal. It is for Lord Granville and General Schenck to decide how much either party ought to concede. National irritabilities have now been eliminated, and only great international interests remain to be considered.

The sensible exposition of the question recently put forth before the Historical Society of New York by Mr. Charles Francis Adams, formerly American minister in this country, will disabuse many persons of the mischievous notion that the rantings of Mr. Butler and Mr. Chandler represent the public opinion of the United States. Fortune has not permitted Mr. Adams, who so ably sustained the American claims during the darkest days of the Union, to carry the negotiations with England to a prosperous close, and to reconcile the countries, which were disunited by a temporary and unreasonable misunderstanding. If this were not to be, General Schneck, representing the best and most honorable section of the dominant party in the United States, is probably one of the most useful representatives America at this crisis could send to England. We may be hopeful, let us trust, of a settlement which, without compromising our honor, may satisfy all the legitimate claims of the United States. On our side, we are well assured, there is nothing but a desire to attain, by fair concessions or frank allowances, the settlement of a foolish quarrel which has alienated two great nations allied by blood and by intellectual sympathies. The American people, at first passionately excited at our recognition of belligerent rights in the southern confederacy, enraged beyond measure at the infractions of international law with which we were charged, broke out, when the civil war was ended, into outrageous recriminations. These have died away. Why should a reconciliation be delayed any longer? What Mr. Adams asks in New York Mr.

Vernon Harcourt has been asking in language equally moderate at Oxford. Mr. Harcourt, of course, does not yield one of the points advanced in earlier stages of the controversy by Mr. Sumner and others. The alleged responsibility of England for her recognition of the South as a belligerent power, he repudiates as a legal monstrosity and a political imposture. As to our liability for the depredations of the Alabama, he maintains that on strictly legal grounds we could scarcely be rendered responsible for her original escape, but that her subsequent admission to British ports was undoubtedly an error. But in any case, whether we believe we were right or wrong, it is desirable, says Mr. Harcourt, that these questions should be discussed by a competent tribunal. It is eminently perilous to leave them open, and to give weak or dishonest politicians an instrument for embroiling two kindred nations. Daniel Webster's noble words, which Mr. Harcourt so aptly quoted, express the present feeling of all thoughtful men in England and America: "This constant speculation, this supposition that war may come, is half as bad as war itself. What we want is settled peace, and the conviction that peace will remain until there is some just and sensible cause for war."

No. 198.

Mr. Moran to Mr. Fish.

[Telegram.]

LONDON, *January 15, 1871.* (Received January 16.)

Thomas Burke and William F. Roantree, Americans, leave with other Fenians for New York, in Russia, to-day. Passages defrayed by British government.

MORAN.

No. 199.

Mr. Moran to Mr. Fish.

No. 192.]

LEGATION OF THE UNITED STATES,
London, January 19, 1871. (Received February 3.)

SIR: I have the honor to inform you that in the latter days of last December the Right Honorable Mr. Hammond, one of her Majesty's under-secretaries of state for foreign affairs, asked me if I could send a letter to Mr. Washburne from Lord Granville to M. Jules Favre, in case the North German ambassador here should not object, to which I replied in the affirmative. Late in the evening of the 30th ultimo, I received a private note from Mr. Hammond, inclosing the letter from Lord Granville for M. Favre, inviting him to the London conference on the Black Sea question, and saying that Lord Granville had told Count Bernstorff about it the day before. I accordingly sent the letter that evening to Mr. Washburne, in a brief note, stating that I did so at Lord Granville's request, and I left it to Mr. Washburne to deliver the letter or not, as he might think proper. It was delivered, and M. Jules Favre has since published it in his circular in reply, addressed to the diplomatic representatives of France abroad.

The translation of this note of Lord Granville into French, and back again from French into English, has no doubt led to inaccuracies. I inclose a copy, as printed in the Times of the 17th instant, merely remarking that I did not *offer* to communicate with M. Jules Favre, but when applied to, to send a note to Mr. Washburne from Lord Granville

for him, did so, as an act of comity to both the British and other governments interested in the treaty of Paris of 1856.

I have thought it my duty to make this explanation to you, as without it my course in the matter might be open to misconstruction.

I have, &c.

BENJAMIN MORAN.

[From the London Times, January 17, 1871.]

FRANCE AND THE CONFERENCE.

The Journal Officiel of Paris states that the minister of foreign affairs has addressed the following circular to the French diplomatic agents abroad :

PARIS, January 12, 1871.

"SIR: The government has hitherto felt it right to maintain a strict reserve in respect of the negotiations which have been set on foot for a revision of the treaties of 1856. That such revision, should it be necessary, belongs exclusively to the powers which were signatories of those treaties, is a truth so evident that it is needless to dwell upon it. There can be no doubt upon the point. Thus, when one of those powers demanded a modification of the conventions which were equally binding upon all the signatories, the idea of a conference, at which the question could be discussed, was adopted without difficulty. The place of France in that conference was marked out. But could she think of occupying it at a moment when she was entirely absorbed by the defense of her territory? Such was the grave question which the government has had to consider under the circumstances which I am about briefly to recount. It was by a dispatch, dated Tours, 11th of November, received in Paris on the 17th, that the minister for foreign affairs was informed, by M. de Chaudordy, of Prince Gortchakoff's circular. This intelligence was communicated to him by a telegram from our minister at Vienna, in the following terms: 'The Russian minister yesterday made a communication, from which it appears that his government considers itself as no longer bound by the stipulations of the treaties of 1856.' On the same day, November 17, the minister of foreign affairs replied to M. de Chaudordy, recommending the strictest reserve. We had up to that time received no official communication, and we were bound to confine ourselves to a policy of observation, at the same time without omitting to maintain on all occasions our formal right to take part in a resolution which, without our participation, would be absolutely devoid of value. Europe could not entertain any other view, and in the conversations and notes which have been interchanged between the various powers and ourselves, it has always been understood that France was a necessary party to the deliberation, and that she would be invited to join in it. I should hold myself guilty of an unpardonable indiscretion if I were now to reveal the details of these *pourparlers*. Our effort has been to take advantage of the friendly dispositions which have been manifested toward us, and to bring the representatives of the powers to acknowledge that, without deserting or in any way detracting from the extreme importance which the discussion of the treaties of 1856 would have for us, yet we were bound upon entering the conference to introduce yet another discussion of a most important character which should not be met by a plea of incompetency. However, it must be admitted that, while fully sharing this view, the delegation at Tours has always been of opinion that we should accept the invitation of Europe if it should be addressed to us. Summing up this opinion, M. de Chaudordy wrote on his dispatch of the 10th of December: 'The delegation is of opinion, after having examined, with me, all the dispatches, that we should join the conference, even without a previous promise or a subsequent armistice.' The opinion of the members of the delegation has never changed. M. Gambetta strongly expresses it in his last dispatch from the 31st of December, 1870, to the 3d of January, 1871. Addressing the minister of foreign affairs, he writes: 'You must be on the point of quitting Paris to repair to the conference at London, if, as I am assured, England has succeeded in obtaining a safe-conduct for you. I can imagine the pangs which you will experience in leaving Paris and our colleagues. I can hear the expression of your grief and your early refusals, and yet I must tell you in the interest of our cause it must be so.' Before M. Gambetta had written these lines, the minister of foreign affairs, following as well as the imperfection and the delays in communication allowed him to do the negotiations entered upon at Tours, and continued afterward at Bordeaux, had intimated to M. de Chaudordy that the government had decided that, if regularly invited, France would send a representative to the conference at London, but with the condition that England, which had sent it a verbal invitation, would undertake to obtain the necessary safe-conduct for its representative if he were selected in Paris. This arrangement was accepted by the English cabinet. M. de Chaudordy informed the minister of foreign affairs of it in a dispatch dated

Bordeaux, December 26, 1870, received on the 8th of January. He informed him at the same time that the delegation of the government had selected him as the fitting representative of France at the conference. This communication was confirmed by the following letter, written by Lord Granville on the 29th of December, and transmitted to us on the 10th of the present month through the medium of the United States minister:

“*Lord Granville to his excellency the minister for foreign affairs at Paris.*

“LONDON, December 29, 1870.

“MONSIEUR LE MINISTRE: M. de Chaudordy has informed Lord Lyons that your excellency was proposed to represent France at the conference which it has been agreed to hold in London, concerning the neutralization of the Black Sea, and he has at the same time requested me to obtain a safe-conduct which will enable your excellency to pass through the Prussian lines. I immediately requested Count Bernstorff to apply for the safe-conduct, and to transmit it to your excellency by a German officer dispatched with a flag of truce. M. de Bernstorff yesterday informed me that a safe-conduct would be placed at your excellency's disposition whenever it should be applied for by an officer sent from Paris to the German headquarters, seeing that satisfaction had not been given for the officer bearing a flag of truce upon whom the French had fired. I have been informed by M. Tissot that much time would elapse before this information could be transmitted to you by the delegation at Bordeaux, and I have consequently suggested to Count Bernstorff another means by which it could reach you, by taking advantage of the opportunity offered by the *chargé d'affaires* of the United States to acquaint you with what has passed. It had been agreed that the conference shall assemble this week, but in order to afford time for the arrival of the French plenipotentiary, the day of meeting has been fixed for the 3d of January. I trust that your excellency will authorize M. Tissot to represent you at the first meeting, at which I will place upon the order of the day only questions of form, and, if your excellency is in a position to inform me of your arrival, I would propose to adjourn the conference for a week, to obtain the valuable advantage of your experience. I trust that your excellency will permit me to take the opportunity of expressing my gratification at entering upon personal relations with yourself, and the pleasure I shall have in seeing you in London.

“I have the honor, &c.,

“GRANVILLE.”

“Being called upon by the dispatch, the government could not, without abdicating the rights of France, reject the invitation which it received in her name. Undoubtedly it might be objected that, for France, the moment is not favorable for a discussion respecting the neutrality of the Black Sea. But it is precisely because at this supreme moment France is fighting for her honor and her existence, that the official proposition made to the French Republic by the European cabinets acquires an exceptional importance. It is a tardy commencement of justice, an engagement which cannot be retracted. It consecrates with the authority of public law the change of reign, and brings upon the scene where the destinies of the world are being contested the free nation, free despite her wounds, in place of the chief who led her to her danger, or of the pretenders who sought to dispose of her. Besides, who does not feel that, admitted to face the representatives of Europe, France has an incontestable right to lift up her voice? Who can arrest her when, relying upon the eternal rules of justice, she will defend the principles which guarantee her independence and her dignity? She will abandon none which we have maintained. Our programme is unchanged, and Europe, who invites those who framed it, knows well that they are bound and are prepared to maintain it. There was no room, therefore, for hesitation, and the government would have committed a grave fault in rejecting the overture which was made to it. But while recognizing that fact, it thought, with myself, that the minister for foreign affairs could not, without some reason of paramount importance, quit Paris in the midst of a bombardment which the enemy is directing upon our city. For a week past, suddenly, without warning to the inoffensive inhabitants and neutrals, the commander-in-chief of the Prussian army showers his murderous projectiles upon our buildings. It seems that he selects in preference our hospitals, our schools, our churches, our benevolent institutions. Women are killed in their beds, children in the arms of their parents or under the eyes of their teachers. Yesterday we accompanied to their last resting-places five little coffins of young pupils crushed under the weight of a shell weighing 200 pounds. The church, where their remains were blessed by the priest and watered by the tears of their parents, testified by its walls, shattered even at night, to the fury of the assailants. I know not how long these inhuman measures will continue. Useless for the attack, they are only an act of depredation and murder destined to excite terror. Our brave population of Paris feels its courage increase with the danger. Firm, irritated, resolute, it is indignant and does not bend. It means more than ever to fight and con-

quer, and we mean it also. I cannot think of separating myself from it at this crisis. Perhaps our protests addressed to Europe, the protest of the ambassadors present in Paris, will soon put an end to it. Till then England will understand that my place is in the midst of my fellow-citizens. This is what I explained to the foreign minister of Great Britain in the reply which is subjoined, and which fitly closes this statement:

“PARIS, January 10.

“M. le Comte: I received only to-day, the 10th of January, at 9 p. m., through the minister of the United States, the letter which your excellency has done me the honor of writing to me, dated the 20th of December, 1870, whereby I am informed that you have requested Count Bernstorff to place at my disposal the safe-conduct necessary for my passing through the Prussian lines and attending, as representative of France, the conference which is to be opened at London. I thank your excellency for this communication, and for the kindness shown me in facilitating the accomplishment of the duty imposed on me. It is, however, difficult for me to depart immediately from Paris, which, for eight days, has been given up to the horrors of a bombardment carried on against its inoffensive population, without the warning which is usual according to the law of nations. I do not feel it right to abandon my fellow-citizens at the moment when they are victims of this violence. Moreover, the communications between Paris and London are, by the act of the commander-in-chief of the besieging army, so slow and uncertain that I cannot, notwithstanding my good wishes, reply to your appeal in the terms of your dispatch. You kindly informed me that the conference would meet on the 3d of January, and would then probably adjourn for a week. Apprised of this on the evening of the 10th, I could not profit by your invitation in proper time. Moreover, Count Bismarck, while allowing the letter to reach me, has not accompanied it with a safe-conduct, which is, however, indispensable. He requests that a French officer should repair to the Prussian headquarters to seek the safe-conduct, availing himself of complaints which he addressed to the governor of Paris on the occasion of an incident complained of by a *parlementaire* on the 23d of December; and Count Bismarck adds that, until satisfaction has been given him, the Prussian commander-in-chief forbids any communication by *parlementaires*. I do not inquire whether such a resolution, contrary to the laws of war, would not be the absolute negation of superior rights which necessity and humanity have always maintained for the benefit of belligerents. I content myself with remarking to your excellency that the governor of Paris promptly ordered an inquiry into the facts cited by Count Bismarck, and, in announcing this to him, brought to his knowledge facts of the same kind, much more numerous, imputable to Prussian sentinels, on which facts, however, he had never thought of relying for the purpose of interrupting the exchange of ordinary relations. Count Bismarck seems to have admitted, at least partially, the justice of these observations, for this very day he charged the United States ambassador to inform me that, reserving respective inquiries, he re-establishes relations by *parlementaires*. There is no necessity, then, for a French officer to repair to the Prussian headquarters, and I am about to enter into communication with the United States ambassador in order to procure the safe-conduct which you have kindly obtained. As soon as I have this document in my hands, and the situation of Paris permits, I shall proceed to London, sure beforehand of not invoking in vain, in the name of my government, the principles of right and morality which Europe has so great an interest in causing to be respected.

“Accept, &c.,

“JULES FAVRE.”

“I beg you, sir, to bring this dispatch to the knowledge of the government to which you are accredited. It is fit that Europe should be enlightened on our intentions and our acts; it is to its equity that we submit them.

“Accept, &c.,

“The minister of foreign affairs, JULES FAVRE.”

No. 200.

Mr. Moran to Mr. Fish.

No. 193.]

LEGATION OF THE UNITED STATES,
London, January 19, 1871. (Received February 3.)

SIR: Referring to my No. 164, I have now the honor to send herewith copies, extracted from the Times of the 11th, 13th, and 18th instant, of the reports of the proceedings against the ship *International* for vio-

lating the neutrality or foreign enlistment act of 1870, together with an editorial from the Times of the 18th on the subject.

I am, &c.,

BENJAMIN MORAN.

[From the London Times, January 11, 1871.]

LAW REPORT—COURT OF ADMIRALTY, JANUARY 10—BEFORE THE RIGHT HON. SIR R. J. PHILLIMORE—THE INTERNATIONAL AND CARGO.

This was an application under the foreign enlistment act, 1870, which provides, among other things, that "if any person within Her Majesty's dominions, without the license of Her Majesty, does any of the following acts—that is to say, builds or agrees to build * * * any ship * * * or issues or delivers any commission for any ship * * * or equips any ship with intent or knowledge, or having reasonable cause to believe that the same shall or will be employed in the military or naval service of any foreign state at war with any friendly state, or dispatches, or causes to be dispatched, any ship with intent or knowledge, or having reasonable cause to believe that the same shall or will be employed in the military or naval service of any foreign state at war with any friendly state, such person shall be deemed to have committed an offense against this act, and * * * the offender shall be punishable by fine and imprisonment, * * * and the ship in respect of which any such offense is committed and her equipment shall be forfeited to Her Majesty." The act also provides that the owner of the ship so detained may apply to the court of admiralty, which may release the ship with costs and damages. It appeared that on the 28th day of November last, the India-rubber, Gutta-percha, and Telegraphic Works Company, (limited,) by their manager, agreed with M. Steenackers as directeur général des télégraphes et des postes to furnish and lay submarine cables along various parts of the French coast, extending from Dunkerque to Verdon, near Bordeaux, and that the International, a vessel belonging to that company, was, accordingly, laden with cable and proper fittings, and while she was lying off the company's works at Silvertown, and ready to start, she was, on the 21st of December last, arrested by order of the government. Various negotiations ensued with the government to obtain a release of the vessel, but without avail; and a motion to the court upon affidavits was now made on behalf of the company for a release of the vessel, with costs and damages.

The attorney general, (with him the solicitor general, the Queen's advocate, and Mr. Archibald,) for the Crown, applied that the case might be postponed till Thursday to give the crown time to answer the affidavits of the other side, which had only been delivered on Saturday last.

Sir J. Karslake, Q. C., (with him Mr. T. Hughes, Q. C., Mr. Lindley, and Mr. Pritchard,) for the company, resisted the application, on the ground that, as the seizure was made on the 21st of last month, the advisers of the Crown must be well aware of the facts of the case, and ought to have been now prepared with affidavits. Delay was of the utmost consequence to the company, as they were under contract with the French government to lay the cable before the 31st instant.

Sir R. J. Phillimore was of opinion that it was extremely expedient that the matter should, as the statute requires, be decided with celerity and dispatch; still, he should be sorry to be too precipitate, as the question was one of the gravest importance. The application was the first of its kind that had been made to the court under the statute. His lordship then ordered that the affidavits should be filed by 1 o'clock this day, and that the motion should be heard on Thursday morning.

[From the London Times, January 13, 1871.]

COURT OF ADMIRALTY, JANUARY 12—BEFORE THE RIGHT HON. SIR R. J. PHILLIMORE—THE INTERNATIONAL AND CARGO.

This was an application under the foreign enlistment act, 1870, which provides, among other things, that "if any person within Her Majesty's dominions, without the license of Her Majesty, does any of the following acts—that is to say, builds or agrees to build * * * any ship * * * or issues or delivers any commission for any ship * * * or equips any ship with intent or knowledge, or having reasonable cause to believe that the same shall or will be employed in the military or naval service of any foreign state at war with any friendly state, or dispatches, or causes to be dispatched, any ship with intent or knowledge, or having reasonable cause to believe that the same shall or will be employed in the military or naval service of any foreign state at war

with any friendly state, such person shall be deemed to have committed an offense against this act, and * * * the offender shall be punishable by fine and imprisonment, * * * and the ship in respect of which any such offense is committed and her equipment shall be forfeited to Her Majesty." By the interpretation clause of the act "military service shall include military telegraphy, and any other employment whatever in, or in connection with, any military operation." The act also provides that the owner of the ship so detained may apply to the court of admiralty, which may release the ship with costs and damages. It appeared that on the 28th day of November last the India-rubber, Gutta-percha, and Telegraphic Works Company, (limited,) by their manager, agreed with M. Steenackers, as directeur général des télégraphes et des postes, to furnish and lay submarine cables along various parts of the French coast, extending from Dunkerque to Verdon, near Bordeaux, and that the International, a vessel belonging to that company, was accordingly laden with cable and proper fittings, and while she was lying off the company's works at Silvertown, and ready to start, she was, on the 21st of December last, arrested by order of the government.

Various negotiations ensued with the government to obtain a release of the vessel, but without avail, and on Tuesday last the court was moved for a release of the vessel with costs and damages, when the further hearing was postponed till to-day, to enable the Crown to answer the affidavits of the applicants. The application for release was founded upon the affidavit of Mr. Gray, manager of the company, in which he stated, among other things, that the vessel was bought in July last, partially built, and afterward fitted for the company's ordinary business of laying submarine cables; and that after she was delivered to the company she was used for laying for the British government a submarine cable between Jersey and England; that the present contract was made with M. Steenackers as a civil functionary, answering to our postmaster general, under whose direction all telegraphic and postal arrangements are conducted, whether for public or private purposes, except military telegraphy, which is provided for by the minister of war and naval telegraphy, which is under the minister for marine. Mr. Gray also stated his belief that the cables were to be used for ordinary public and private business, though, no doubt, messages would sometimes be sent by them relating to military matters. M. Sauvinet, the chief secretary of M. Steenackers, also made an affidavit corroborating Mr. Gray, and stating, also, that at the date of the contract the seat of the government was at Tours, and that there was no intention to remove it to Bordeaux; that the system of submarine cables provided for by the contract was designed to replace or add to the inland telegraphic communications broken by the war, and to keep the commercial port of Bordeaux in communication with England, America, and the north of France and Europe; that all the telegraphic communication between Europe and America is now carried on by means of the French Atlantic submarine cable between Brest and America, and if the intended cables were laid they would afford another means of communication between England and Brest, and so with America, and that the submarine telegraph cable between France and Algeria has been laid by Englishmen by contract with M. Steenackers since the commencement of the war. On behalf of the Crown affidavits were filed by Mr. Clare, secretary to the submarine telegraph company, and Mr. Scudamore, secretary to the general post-office, stating the number of lines of telegraph between this country and France, the number of messages which can be transmitted in the course of the day, and their belief that the proposed cable would have little value for commercial purposes, and would not be wanted after the close of the war. A copy of the bulletin, dated the 10th of December, was also produced, by which the government was transferred from Tours to Bordeaux.

By the terms of the contract the cables were to be laid before the 31st instant, under a penalty of 44,000*l*; i. e., half the price mentioned in the contract.

Sir J. Karslake, Q. C., Mr. T. Hughes, Q. C., Mr. Lindley, and Mr. Pritchard appeared for the company; and the attorney general, the solicitor general, the Queen's advocate, and Mr. Archibald for the Crown.

The hearing of the application occupied the whole day, and his lordship reserved his decision, but stated that he would give judgment very shortly.

[From the London Times, January 18, 1871.]

THE INTERNATIONAL AND CARGO—COURT OF ADMIRALTY, JAN. 17—BEFORE THE RIGHT HON. SIR R. J. PHILLIMORE.

This was an application, under the foreign enlistment act, 1870, on behalf of the India-rubber, Gutta-percha and Telegraphic Works Company, the owners of the International steam-vessel, for a release, with costs and damages, of the vessel, which was arrested in the river Thames by order of the government on the 21st of December last, particulars of which have already appeared.

Sir J. Karslake, Q. C., Mr. T. Hughes, Q. C., Mr. Lindley, and Mr. Pritchard appeared for the company; the attorney general, the solicitor general, the queen's advocate, and Mr. Archibald for the Crown.

The case was argued on the 12th instant, and the court now gave judgment.

Sir R. PHILLIMORE: This is an application, under the 23d section of 33 and 34 Vic., cap. 90, by the India-rubber, Gutta-percha, and Telegraph Works Company, (limited,) the owners of the ship *International* and her cargo, for the release of that vessel and cargo, which have been and are now detained by the order of the secretary of state under the provisions of the same statute. This statute, passed during the last session, under which the authority of this court is now for the first time evoked, is in my judgment very important and very valuable; strengthening the hands of Her Majesty's government, and enabling them to fulfill more easily than heretofore that particular class of international obligations which may arise out of the conduct of Her Majesty's subjects toward belligerent foreign states with whom Her Majesty is at peace. It is the duty, I think, of the court, upon whom is devolved the application of this statute to particular cases, so to construe it as, on the one hand, to give, if possible, due and full execution to its main purpose; and, on the other, not to strain the provisions of it so as to fetter the private commerce of Her Majesty's subjects beyond the express limits which the statute for the general interests of the public weal has prescribed. The statute provides, among other things, "that if any person within Her Majesty's dominions dispatches, or causes or allows to be dispatched, any ship with intent or knowledge, or having reasonable cause to believe, that the same shall or will be employed in the military or naval service of any foreign state at war with any friendly state, such person shall be deemed to have committed an offense against this act." Then certain penalties ensue to the person and to the ship. It is with the latter only that the court is now concerned. The act confers special powers on the secretary of state, (section 23,) which he may exercise in two ways. He may issue a warrant for the detention of a suspected vessel, and then simply detain such vessel, taking no further proceedings and leaving the owner to make his application for release to this court; or he may proceed to obtain the condemnation and forfeiture of the vessel to the Crown. The secretary of state, in this instance, has taken the former and milder course, and does not, I am informed by the attorney general, think it a case in which further or more serious steps should hereafter be taken. "*Interest Reipublice*," it is said, that this vessel should suffer a temporary detention, or if released by order of this court, that such release should be accompanied by a special bond entered into by the owners of the vessel giving security against any belligerent or non-neutral use of the vessel or her cargo. But the vessel is not to be proceeded against for any second penalty. The owners of the *International* and her cargo, however, are applicants to this court, both for the immediate and unconditional release of the vessel and cargo and for the condemnation in costs and damages (a power conferred by the statute on this court) of the government. I must now draw attention to the facts of this case as they appear in the affidavits, and as they are connected with others which are matters of general notoriety. The vessel herself, it is admitted, independently of her peculiar cargo, is not, *per se*, in any way adapted for purposes of war. Mr. Gray (the manager of the company) swears that "the said company carries on, among other things, the business of the manufacture and laying of submarine cables," and that "on or about the seventh day of July, 1870, the said company purchased the said ship, then partially built, and caused her to be specially fitted for the purpose of their ordinary business, of laying submarine cables as aforesaid." She was purchased by her present owners, the India-rubber and Gutta-percha Telegraph Works Company, on the 7th of July last year. At that time the terrible and devastating war which very soon afterward began to cover France with blood had not broken out. At the time of the purchase the ship was partially built, and was subsequently, as is shown by Mr. Gray, "specially fitted for the purpose of laying submarine cables." The ship was delivered as completed to the company in the month of September, and was shortly afterward let by the company to Her Majesty's government for the purpose of laying a submarine cable between England and Jersey, which task she successfully performed. On the 23th of November the company entered into a contract with the director general of telegraphic and postal service in France to furnish and lay down certain submarine cables. It will be important to notice precisely the principal features of the contract. On the 21st of December, while lying in the Thames with cable on board of the kind required for the fulfillment of the contract, she was seized by officers of the customs, and on the 27th was detained by a warrant from the secretary of state for foreign affairs. The contract to which I have referred was entered into between the company and the French government, represented by the director general of telegraphs and mails, subject, however, to subsequent sanction (article 12) by a decree of the government of national defense. According to the terms of the contract, the company were to lay down in the channel and in the ocean various electric submarine cables, intended to connect, 1. Dunkirk with Cherbourg; 2. The west coast of the peninsula of Cotentin, toward Carteret, with some point of the bay of St. Brieuc; 3. The peninsula of Quiberon with Belle Isle en Mer;

4. Belle Isle en Mer with Royan; 5. Royan with Verdun. The cable is described as being of two kinds—a submarine cable and a land or shore-end cable, “*cable d’atterrissement et celui de pleine mer.*” They were to be made in conformity with models produced in court. By the 15th article the French government “reserves the selection and designation of the line of direction of the cable, and the precise points of landing, which is to be made known to Mr. Matthew Gray before the vessel which is to lay it down leaves the port of London.” By the 3d article, “the first and fourth sections to be laid down” (that is, Dunkirk to Cherbourg and Belle Isle en Mer with Royan) “shall comprise at each of their extremities 20 kilometers of cable of the land model; the intermediate portions shall be composed of cable of the model for deep seas.” “The second, third, and fifth sections are to be constructed entirely of land-cable;” that is to say, (2.) “the west coast of the peninsula of Cotentin, toward Carteret, with some points of the bay of St. Brieuc;” (3.) “the peninsula of Quiberon with Belle Isle en Mer;” (5.) “Royan with Verdun.” The contract further provides (article 4) that “at the extremities of each section a length of 500 meters of land-cable shall be placed at the disposal of the French administration, over and above the submerged conductor to be placed underground beyond the sea, to the point of junction of the submarine and land line.” The whole sum to be paid to the company was not quite 90,000*l.*, in five installments. The operation of laying down the several cables was to be completed by January 31, 1871. In case of non-fulfillment, the French government were to take possession of the conductor, the ownership of which was to be theirs after the payment of the first two installments.

It appears, therefore, that there was one undivided contract to lay down a series of cables, extending from Dunkirk to Verdun, at the mouth of the Garonne, with the exception of certain portions of land, a telegraphic communication over which would be necessary to complete the connexion between the two extremities mentioned. With this connexion the company had no concern, except in so far as 500 meters of land-cable, or, rather, of additional shore-end, were, under article 4, to be provided by them and placed at the disposal of the French government. It has appeared from the material portions of the contract to which I have adverted, as well as from the ordinary functions of the company, that *prima facie*, at least, this undertaking had not for its object any employment “in the military or naval service” of France. It was apparently a *bona fide* commercial undertaking between the subjects of Her Majesty and a government in friendly relations with her. And the attorney general was express and clear in his statement that no *mala fides* or deception of any kind was to be imputed to the company, but a violation of the law through ignorance. It was also admitted, as I fully expected it would be, by the attorney general that this statute in no way affects the previously existing international law as to contraband. I have not, therefore, to consider whether, as suggested by the Queen’s advocate, this vessel might have been seized by a Prussian cruiser as being employed in the service of France, or as carrying contraband of war of a novel kind, but falling under the old principle. The carrier of contraband may violate the proclamation of the neutral state of which he is a member, and deprive himself of the right to protection from her; but the punishment of his offense is by the general law of nations left to the belligerent, who has the right of capture. The offense is not cognizable by the municipal law of this country. It occurred to me during the argument that the only bearing of the law of contraband on the present case might arise from the analogies furnished by that law—namely, that as “circumstances arising out of a particular situation of the war, and condition of the parties engaged in it” (“*The Jonge Margaretha*,” 1 *C. Rob.*, 193) might clothe an article *ancipitis usus* with the character of contraband, so it might be argued that the cargo of the *International*, innocent under ordinary circumstances, might, in those of the present war, bring the vessel within the category of a ship dispatched for employment in the military or naval service of France.

I shall bear this analogy in mind in considering the further arguments addressed to me by the law officers of the Crown, which I am about to notice. The counsel for the Crown have strongly contended that, considering all the circumstances of the case, those who dispatched the *International* and her cargo had, notwithstanding the language of the contract, “intent and knowledge,” or, at least, “reasonable cause to believe” that she would be employed in the military service of France. First, it is pointed out that the contract is with the French government; second, it is said that the state of France at the period of the date of the contract was such as to render it impossible to believe that the government could have contemplated laying a cable for commercial purposes mainly or alone; third, that the circumstance of the places to be united by the cable, especially Dunkirk, Cherbourg, and Bordeaux, through Verdun, was one fraught with suspicion, as affording the inception, at least, of means of communication between the main armies of France, the value of which could not be over-estimated to the defenders of that country in her present position; fourth, it was especially pressed upon the court that the contract was entered into very shortly before the removal of the government to Bordeaux, and must have been intended to facilitate the communications of the government in its new seat with the rest of France.

On behalf of the applicants it had been alleged that the telegraphic line is strictly civil and postal, and not military. That the statute has specifically provided that to furnish "military telegraphy" shall be considered an employment in the military service of the state to which it is furnished. That "military telegraphy" is, according to a recognized scientific definition, of a wholly different kind and character from ordinary civil postal telegraphy; and this fact was, indeed, not denied by the counsel for the Crown; but I must observe that to maintain that military and postal telegraphy are different in kind is one proposition, and to maintain that, therefore, postal telegraphy, though proved to be employed exclusively, or mainly, for military purposes, cannot be considered as being employed in the military service of the state, so as to fall within the purview of the statute, is another and very different proposition, to which I am not disposed to assent. The statute, by specifying military telegraphy, has not, in my opinion, excluded the possibility of showing that, in the particular circumstances of the case, postal telegraphy must be considered as the telegraphy employed in the military service of the State. The question is, whether there is evidence before me in the present case to prove that the real object of this postal telegraphy was and must have been known to be subserving in its main end and purpose the military service of France. The positive evidence is entirely in favor of the applicants. I do not say that such evidence is necessarily binding upon the court, or that the counter presumption may not be so strong as to render such testimony null. Lord Stowell somewhere says: "It is the idlest of all conceits that a court is bound by mere swearing." The swearing must, of course, be credible; but the presumption must be very strong to overbear the testimony furnished in this case, by the affidavits both of the French and English witnesses, especially where no *mala fides* or want of candor is ascribed to the applicants.

The company is formed to furnish ordinary postal telegraphs. The contract with the French government is to furnish telegraphy of this kind only. No other kind is furnished. It is inapt *per se* for land telegraphs, much more for military telegraphy. It is credibly sworn, I think, that the applicants are no parties, directly or indirectly, to any intention or project of adapting this, so to speak, civil telegraphy to military purposes. No such adaptation is within the letter or spirit of their contract. The present circumstances of France are certainly such as to make the means of communication between her armies and her government of the utmost value to her. It is probable that this telegraphic line from Dunkirk to Verdun will be partially used for effecting, or endeavoring to effect, such communication. But neither does this appear to be the main object of the line, nor could it, without additions and adaptations with which this company has no concern, be made even partially to subserve this end. On the other hand, there is nothing incredible in the statement that commercial interests are largely concerned in the establishment of a postal telegraphic line between Dunkirk and Verdun, at the mouth of the Garonne, due regard being had to the great and increasing commercial importance of Bordeaux. It is, however, probable, as I have said, that the line may be occasionally used for military among other purposes; but such a probability is not sufficient to divest the line of its primary and paramount commercial character, and to subject this company to the very severe penalty imposed by the statute.

After a careful consideration of the statute and of the facts of this case, I have arrived at the conclusion that the applicants have made out their claim to have this vessel released. They, it is admitted, have acted with candor and with good faith toward the government, and I do not think I ought to clog the release with the bond proposed by the attorney general, the conditions of which, I may observe, were only very generally hinted at, and which might not be easy to frame. Be this, however, as it may, I do not impose such a condition on the release which I decree. I am of opinion, however, that having regard to the peculiar circumstances of the case, which I need not repeat, Her Majesty's government took a correct view of the grave obligations imposed upon them, and that there was "a reasonable and probable cause" for the detention of this ship and cargo, and for putting the applicants upon their defense. I therefore make no order as to costs or damages.

Notice of appeal from his lordship's judgment to the judicial committee of the privy council was given both on behalf of the company and of the Crown.

[From the London Times of January 16, 1871.]

It is an odd result of the accidental composition of our judicial system that questions of the most vital importance to the nation should be brought for determination before a judge whose court attracts, under ordinary circumstances, the most moderate degree of attention. We are, of course, a seafaring people. Were it not for our supremacy on the great deep, our position in the scale of nations would be very different from what it is. We rule the waves. "The charter of the land" assures us of this privilege, and in the darkest moments of national retrospect we still flatter ourselves,

we hope with truth, that we could defy all assaults on our naval supremacy. And yet the judge of our admiralty court—we say it with all respect for the present occupant of that position—is, it must be acknowledged, very much a creature of accident. He fulfills the double duty of examining who is at fault in the case of collisions at sea and who is at fault in the case of an alleged infringement of the thirty-nine articles. Whether Sir Robert Phillimore is more at home in the one or the other class of subjects coming before him for determination is a matter which must not be too curiously investigated. Some of his predecessors were great in one direction, some in another. Lord Stowell was one of the executors of Dr. Johnson, yet it is currently believed that his judgments on admiralty cases were more valuable than his exertations on ecclesiastical law. His decisions as the judge of the first prize court of the realm are invaluable; but his opinions on heresy are, perhaps, hardly so highly accounted now as they were in his own time. Sir Herbert Jenner Fust, on the other hand, if he descend to posterity at all, will be remembered as the judge who pronounced judgment in the great case of "*Litchfield v. Another*," on the momentous question whether an altar-table could be made of stone as well as of wood, and who had the felicity of hearing and deciding in its first stages the issues in the cause of "*Gorham vs. the Bishop of Exeter*," which, now that Dr. Phillips and Mr. Gorham have both gone to their account, we may be permitted to say agitated public attention to an extent it did not deserve.

Sir Robert Phillimore yesterday gave judgment in the case of the "*International*." We have no intention of questioning his decision. On the contrary, we accept it with great satisfaction. If we may be permitted to say so, we could not have advised any other conclusion than that at which the learned judge arrived. Yet it is remarkable that a question of such intricacy and of such international importance should have been relegated to the judge of a court of such comparative obscurity. If everything were submitted to tribunals constituted according to the intrinsic value of causes as they arise, we might expect that the lord chancellor, the lord chief justice, the chief of the common pleas, the chief baron, with, perhaps, the chancellor of the exchequer thrown in as an assessor, would have been called on to decide it. Imagine that the Alabama, instead of being suffered to escape, as unfortunately she was, had been apprehended and detained by the collector of customs at Liverpool, and that thereupon the Messrs. Laird had applied to the court of admiralty to have her restored to them. The whole wit and learning of the kingdom ought to have been cited to adjudicate upon the question. The matter of the "*International*" is no whit less intricate, and possibly no less momentous. What are the circumstances of the case? The India-rubber, Gutta-percha, and Telegraph Works Company entered, on the 28th of November last, into a contract with the director general of telegraphic and postal service in France to furnish and lay down certain submarine cables. Sir Robert Phillimore in his judgment recites some former transactions of the company in relation to the ship which was the subject of the contest before his court, but we cannot persuade ourselves that they had anything to do with the point before him for decision. In November the company contracted with the French director general of telegraphs to furnish and lay down electric submarine cables from Dunkirk to Cherbourg; again, from the west coast of the peninsula of Cotentin to a point in the bay of St. Brienc; again, from Quiberon to Belle-isle-en-Mer, and again from Belle-isle-en-Mer, by two stages, to the mouth of the Garonne—that is to say, to the port of Bordeaux. The several sections thus contracted for, when supplemented by a piece of land-cable crossing the westernmost peninsula of France, would connect Dunkirk and the other chief ports of the coast, except Brest, with Bordeaux. Such was the contract between the company and the *de facto* Government of France. On the 21st of December the "*International*," a ship of the company, being loaded with submarine cables for the purpose of fulfilling this contract, was seized in the Thames by the officers of the customs, and on the 27th was detained by warrant of the foreign secretary. The company at once applied to the court of admiralty to be released from the detention occasioned by this warrant, and Sir Robert Phillimore yesterday decided that the company had a right to the release; but the point involved in the application was, in his opinion, of such nicety and doubt that, though he decided in favor of the company, he refused to allow them the costs of their application, and left to the Crown and the company the burden of sustaining their several costs of procedure.

How did it come to pass, it will be asked, that there could have been any case for detaining the *International*, with its cargo of telegraphic cables, to be laid around the west coast of France? The service to be thus rendered seems in itself sufficiently innocent, its military bearing too remote to be the subject of judicial observation. The answer to these questions strikingly illustrates the peculiarities of parliamentary government. The war between France and Germany broke out toward the end of the last session, and it was then remembered at the Foreign Office that our foreign enlistment act was very imperfect, and that a royal commission had recommended its amendment in several particulars. A bill was accordingly introduced in hot haste, and hurried through Parliament. It included much of perhaps doubtful policy; it omitted as

much that might, perhaps, have been included. It left untouched the facility of exporting arms to a belligerent, but, according to the contention before Sir Robert Phillimore, it prohibited the supply of a telegraphic cable to a friendly government at war with another ally. In effect, the 8th section of the bill which thus became an act confiscated to the Crown any ship dispatched with intent or knowledge or under reasonable suspicion that the same "should be employed in the military or naval service of any foreign state at war with any friendly state." This language is vague, but still it could scarcely be pretended that a ship sent from our shores with a cable to be laid between, for example, Havre and Bordeaux, was dispatched with an intent that it should be employed in the military or naval service of France; but the interpretation clause of the statute—a clause which generally passes *sub silentio* in Parliament—declares that military service shall include military telegraphy; but the same clause defines "naval service" without any reference whatever to telegraphy. Under this interpretation clause the Foreign Office held that the International, being about to be dispatched with cables to be laid between Dunkirk and several points leading in a broken chain to the mouth of the Garonne, was sent on a mission of "military telegraphy," and therefore on "military service," and thus became forfeited to the Crown.

We have not been slack to admit the obligations of neutrality during the present war. If we have in any way been open to criticism, it is that we have gone before the requirements of international law rather than lagged behind them; but the contention of the officers of the Crown in claiming the forfeiture of the International appears to over-pass all reasonable construction of the statute, as it certainly exceeds any argument that can be advanced on principle. As far as the law of nations is concerned, it could not be contended for a moment that the International was liable to capture as bearing a contraband cargo. If she was open to seizure at all, it must be under the statute. The question before Sir Robert Phillimore, therefore, was simply whether a contract with the French government to lay a cable between Dunkirk and Bordeaux—for we may omit the consideration of the fact that there were missing links in the complete connection—was a service of "military telegraphy." We have little hesitation in answering that it was not. The cable when laid might be used, among other purposes, for the conveyance of orders directing the movements of the armies of France; but, admitting this, the service so rendered was no more military than the supply of writing-paper would have been. A means of communication, in itself perfectly innocent, would have been established, and its devotion to military purposes would have been ancillary to the transaction, and not the essence of it. No neutral power can be expected to extend its surveillance over its citizens to such an extent; and, indeed, could the doctrine be established, as was implied in the claim to arrest the International, there would be ground for the creation of a new neutral league to break up the servitude sought to be imposed by belligerents on their neighbors. Sir Robert Phillimore, after a careful examination of the facts, decided that the primary and paramount character of the undertaking was commercial, and that, therefore, the International was free from the penalty sought to be enforced; and if this conclusion be questioned, we may ask what possible contract could be made with the French government which would not be open to objection? Is it maintained that the fact of war between two nations imposes upon neutrals the duty of complete isolation from each, since no contract with either can possibly be conceived which is not for its benefit? Such a *reductio ad absurdum* seems a sufficient answer to a claim that was, perhaps, properly advanced in the court of admiralty, and certainly was properly rejected.

No. 201.

Mr. Fish to Mr. Moran.

[Telegram.]

DEPARTMENT OF STATE,

Washington, January 21, 1871.

Inform Washburne by first opportunity that the Shenandoah is at Havre, and will receive orders to be at his disposal on the surrender of Paris to convey him to Bordeaux or elsewhere. He can order her to Antwerp or Ostend, or where he prefers, to meet him.

FISH.

No. 202.

Mr. Moran to Mr. Fish.

No. 203.]

LEGATION OF THE UNITED STATES,
London, January 26, 1871. (Received February 9.)

SIR: I have the honor to state that on the 22d instant I received your telegram of the preceding day instructing me to inform Mr. Washburne by the first opportunity that the United States steamer Shenandoah, now at Havre, would receive orders to be at his disposal on the surrender of Paris to convey him to Bordeaux; and yesterday morning I received your telegram of the 24th instant, instructing me to get from Mr. Stevens the dispatch of the Secretary of the Navy to Captain Wells and send it to Mr. Washburne.

I at once sought an interview with His Excellency Count Bernstorff, and learned from him that he would cheerfully transmit a small parcel for me to Paris by a special courier who would leave London for Versailles in the evening. I accordingly wrote a note to Mr. Washburne, incorporating in it copies of your above-mentioned telegrams, and inclosed to him the dispatch of the Secretary of the Navy to Captain Wells, as well as the dispatches received from you for him by Mr. Stevens since Friday last.

The Prussian courier left this place for Versailles last evening about 8 o'clock, and I am encouraged to hope that Mr. Washburne will receive your telegraphic messages, placing the Shenandoah at his disposal, and the various dispatches which I sent with them, in a very few days.

I had the honor to telegraph to you yesterday a brief report of my action on the subject, in fulfillment of your instructions, and I now beg to inclose herewith copies of your telegrams to me, of my note to Mr. Washburne, and of my cable message to you.

I have, &c.,

BENJAMIN MORAN.

[Telegram.]

WASHINGTON, January 21.

(Received January 22, 1871, at 3.45 p. m.)

To MORAN, *Chargé, American Legation, London:*

Inform Washburne by first opportunity that the Shenandoah is at Havre, and will receive orders to be at his disposal on the surrender of Paris to convey him to Bordeaux or elsewhere. He can order to Antwerp or Ostend, or where he prefers, to meet him.

FISH.

[Telegram.]

WASHINGTON, January 24.

(Received at about 3 a. m. January 25, 1871.)

To MORAN, *Chargé, American Legation, London:*

Get from Stevens dispatch of Secretary of Navy to Captain Wells. Send it to Washburne.

FISH.

Mr. Moran to Mr. Washburne.

LEGATION OF THE UNITED STATES,*

London, January 25, 1871.

MY DEAR MR. WASHBURNE: Early on Sunday morning, the 22d instant, I received the following telegram from Mr. Fish, and as Count Bernstorff will send a special courier to Versailles this evening, I avail myself of his kindness and forward the message to you at the earliest opportunity.

"WASHINGTON, January 21, 1871.

"To MORAN, *Chargé, American Legation, London:*

"Inform Washburne by first opportunity that the Shenandoah is at Havre, and will receive orders to be at his disposal on the surrender of Paris to convey him to Bordeaux or elsewhere. He can order to Antwerp or Ostend, or where he prefers, to meet him.

"FISH."

And at 3 a. m. to-day, I received a second telegram, as follows:

"WASHINGTON, January 24, 1871.

"To MORAN, *Chargé, American Legation, London:*

"Get from Stevens dispatch of Secretary of Navy to Captain Wells; send it to Washburne.

"FISH."

In compliance with Mr. Fish's instructions in this last telegram, I this morning obtained from Mr. Stevens, the dispatch agent here, the dispatch in question, addressed both to Commander Wells and yourself, and send it herewith.

I also add copies of telegraphic correspondence which has passed between the honorable the Secretary of the Navy, Commander Wells, and Mr. Stevens, in regard to the fact of the Shenandoah having been placed under your orders. This correspondence has not, however, come to me officially, and is contained in copies of two letters, addressed by Mr. Stevens on the 23d instant, to the Hon. George M. Robeson, Secretary of the Navy. The Shenandoah is still at Havre, where she awaits your orders.

Asking an early reply to this note, and that you will command me in all things, I am, &c.,

BENJAMIN MORAN.

[Sent at 4 p. m., January 25, 1871.]

LONDON.

FISH, *Secretary of State, Washington:*

Will send your telegram of 21st and dispatch of Secretary of Navy for Captain Wells to Mr. Washburne, by special Prussian courier, this evening. The cipher telegram from Baron Gerolt goes forward to-night.

MORAN.

No. 203,

Mr. Fish to General Schenk.

DEPARTMENT OF STATE,

Washington, February 3, 1871.

MY DEAR GENERAL: Shortly after your acceptance of the appointment of envoy extraordinary and minister plenipotentiary to Great Britain certain overtures were made by the British government to this Government looking to the appointment of a joint high commission, to sit in Washington, for the adjustment of several of the questions existing between the two governments. It was not thought proper to enter upon the consideration of the questions suggested, unless the same high commission should also be charged with the negotiation of a settlement of the "Alabama claims," so called. As your selection for the

mission to London had been made in full confidence of your ability to treat this class of questions, the President, before giving any answer to the overtures that were made, desired me to confer with you and ascertain your views and wishes on the subject. This was done on the 11th of January last, and you gave a decided expression of opinion that the proposal contemplated by the overtures then made ought not, in the interests of the country, to be rejected, and you generously disclaimed any desire to retain in your own hands the negotiations on those important subjects which had already been intrusted to you, and on which you were then receiving the views of this Government, in view of what you thought the greater opportunity of a satisfactory settlement by means of the joint commission proposed to be held in Washington.

You were then requested to delay your arrangements for sailing for your post of duty until the result of the pending overtures should be ascertained, and I promised to give you the earliest notice of the conclusion of the arrangements then under discussion. I have now the pleasure to inform you that notes have passed between Sir Edward Thornton and myself contemplating and agreeing to a joint high commission to meet shortly in this city for the consideration of the various important questions between the two countries, including those of the fisheries, the northwestern water boundary, the Alabama claims, &c. The official or public announcement of this arrangement is delayed for sufficient reasons until some time next week. Until announced by authority you will be pleased to consider the communication now made as confidential.

In conclusion, I have to request that you will further postpone your arrangements for departure, as the President will desire your able services as one of the high commissioners on the part of the United States.

Very faithfully, yours,

HAMILTON FISH.

No. 204.

Mr. Moran to Mr. Fish.

No. 219.]

LEGATION OF THE UNITED STATES,
London, February 4, 1871. (Received February 18.)

The first direct news that has reached London from Paris since the capitulation, arrived this evening. For a whole week a black veil seemed to have fallen between that city and the outer world: The advices so far are meager, but they are sufficient to show that the sufferings of the population during the siege, and particularly at its close, from want of food and fuel, were really terrible. Nothing more truly awful has occurred since the siege of Jerusalem by Titus. Starvation had actually set in, and the proud capital fell, not before the military prowess of Prussia, but before the sappings of famine.

Politically, things are much confused in France. Mr. Gambetta's course is doing mischief. Many regard him as a despot. He is not disposed to carry out fairly that clause of the convention of the 28th of January which relates to the elections. He proposes to exclude all but republicans from the polls. In other words, he advises not to consult the whole nation, but to try to get an assembly elected only by one section of French society, and that probably not the majority. An object of this kind was foreseen by Count Bismarck and M. Jules Favre, as indicated

by the second article of the convention of the 28th of January. Mr. Gambetta's decree is in violation of that article. Count Bismarck protests against the decree, and declares that only freely elected deputies, as stipulated in the convention, will be recognized by the Germans as representatives of France.

A translation of the convention appeared in *The Daily Telegraph* yesterday morning, and I have the honor to inclose a copy herewith.

Much has been said in the newspapers about the German terms of peace; but the conditions reported from Berlin a few days since, and generally believed here at the time, are pronounced inaccurate in so far as concerns Lorraine, Poncecherry, and the cession of twenty men-of-war. The demand for a war indemnity of about four hundred millions of pounds will probably be persisted in. Some excitement exists here in consequence of the alleged demand for Poncecherry, it being very properly remarked that the surrender of that settlement cannot be needed to promote "German unity," any more than the cession of Martinique, Guadeloupe, or Corsica.

That peace will result from the armistice, is doubtful. But, after all, the exhausted state of France may lead the people—for they are to decide the question—to come to terms now, rather than go on fighting a hopeless battle, in which they must at last be the losers.

I have, &c.,

BENJAMIN MORAN.

[From the *London Daily Telegraph*, February 3, 1871.]

FULL TEXT OF THE CONVENTION.—THE OCCUPATION OF THE FORTS.

The following is a translation of the full text of the convention between Count Bismarck and M. Jules Favre, transmitted to us in the original French by our special correspondent at Berlin yesterday :

Convention between M. le Comte de Bismarck, Chancellor of the Germanic Confederation, stipulating in the name of His Majesty the Emperor of Germany, King of Prussia, and M. Jules Favre, minister of foreign affairs of the government of the national defense, both furnished with regular powers, have been determined the following arrangements :

ARTICLE I. A general armistice over all the line of military operations in course of execution between the German and the French armies shall begin for Paris on this very day, and for the departments within the term of three days. The duration of the armistice shall be for twenty-one days, dating from to-day; so that, unless it shall be renewed, the armistice will terminate on the 19th of February, at noon. The belligerent armies will preserve their respective positions, which will be separated by a line of demarcation. This line will commence from Pont Evêque, on the coast of the department of Calvados, and be continued upon Lignéres, in the northeast of the department of the Mayenne, passing between Briouze and Fromental. Touching the department of the Mayenne at Lignéres, it will follow the limit which separates that department from the departments of the Orne and of the Sarthe, to the north of Morannes, and will be continued in such a way as to leave in German occupation the departments of the Sarthe, Indre-et-Loire, Loir-et-Cher, Loiret, and Yonne, as far as a point at which, to the east of Quarréles-Tombes, the departments of the Côte d'Or, the Nièvre, and the Yonne touch each other. Setting out from this point, the tracing of the line will be reserved for an understanding which shall take place as soon as the contracting parties shall be informed as to the actual situation of the military operations which are being executed in the departments of the Côte d'Or, of the Doubs, and of the Jura. In any case the line will pass through the territory composed of these three departments, leaving to German occupation the departments situated to the north, and to the French army those situated to the south, of this territory. The departments of the North and of the Pas de Calais, the fortresses of Givet and Langres, with the territory which surrounds them to a distance of ten kilomètres, and the peninsula of Havre as far as a line drawn from Etretat in the direction of St. Romain, will remain outside the limits of the German occupation. The two belligerent armies and their advanced posts on either side will remain at a distance of at least ten kilomètres from the lines drawn to separate their positions. Each of the two armies

reserves for itself the right of maintaining its authority in the territory that it occupies, and of employing the means which its commanders may judge necessary to attain that end. The armistice applies equally to the naval forces of the two countries, adopting the meridian of Dunkerque as the line of demarcation, to the west of which the French fleet will remain, and to the east of which, so soon as they can be warned, will withdraw the German ships of war which find themselves in western waters. The captures which are made after the conclusion, and before the notification, of the armistice, will be restored, as well as the prisoners who may be taken in the interval indicated. The military operations in the territory of the departments of Doubs, Jura, and Côte d'Or, as well as the siege of Belfort, shall continue independently of the armistice, until an agreement shall be arrived at regarding the line of demarcation—the tracing of which through the three departments mentioned has been reserved for an ulterior understanding.

ARTICLE II.—The armistice thus agreed upon has for its object to permit the government of national defense to convoke an assembly, freely elected, which will pronounce upon the question whether the war shall be continued, or on what conditions peace shall be made. The assembly will meet in the city of Bordeaux. Every facility will be given by the commanders of the German armies for the election and the meeting of the deputies who will compose that assembly.

ARTICLE III.—There shall be immediately surrendered to the German army by the French military authorities all the forts forming the perimeter of the exterior defense of Paris, as well as their material of war. The communes and the houses situated outside that perimeter, or between the forts, may be occupied by the German troops as far as a line to be drawn by military commissioners. The ground between this line and the fortified *enceinte* of the city of Paris will be interdicted to the armed forces of the two sides. The manner of surrendering the forts, and the drawing of the line already mentioned, will form the object of a protocol to be annexed to the present convention.

ARTICLE IV.—During the armistice, the German army shall not enter the city of Paris.

ARTICLE V.—The *enceinte* shall be disarmed of its guns, the carriages of which will be transported into the forts designated for that purpose by a commissioner of the German army.

ARTICLE VI.—The garrisons (army of the line, mobile guard, and marine) of the forts of Paris shall be prisoners of war, excepting a division of 12,000 men, which the military authorities in Paris will preserve for service inside the city. The troops who are prisoners of war shall lay down their arms, which will be collected in the places designated, and given up according to arrangements made by a commissioner, in the usual manner. These troops shall remain in the interior of the city, of which they will not be allowed to pass the *enceinte* during the armistice. The French authorities bind themselves to take care that every individual belonging to the army and to the mobile guard shall remain in the interior of the town. The officers of the captured troops shall be designated in a list to be delivered to the German authorities, and at the expiration of the armistice all the combatants belonging to the army confined in Paris will have to constitute themselves prisoners of war to the German army, if before that time peace is not concluded. The officers made prisoners will retain their arms.

ARTICLE VII.—The national guard will retain its arms. It will be charged with the protection of Paris and the maintenance of order. The same will be the case with the gendarmerie and the assimilated troops employed in the municipal service, such as the republican guard, the douaniers and the pompiers, the whole of this category not exceeding 3,500 men. All the corps of *franca-tireurs* shall be dissolved by ordinance of the French government.

ARTICLE VIII.—Immediately after the signature of these presents, and before the taking possession of the forts, the commander-in-chief of the German armies will give every facility to the commissioners whom the French government will send, whether into the departments or abroad, to take steps for the revictualing, and to bring to the city the commodities which are destined for it.

ARTICLE IX.—After the surrender of the forts, and after the disarmament of the *enceinte* and of the garrison, stipulated in articles 5 and 6, the revictualing of Paris will be effected freely by transit upon the railroads and the rivers. The provisions intended for this revictualment shall not be drawn from the districts occupied by the German troops, and the French government engages itself to obtain provisions outside of the line of demarcation which surrounds the position of the German armies, except in the case of an authorization to the contrary effect given by the commander of the latter.

ARTICLE X.—Every person wishing to quit the city of Paris must be furnished with regular permits, delivered by the French military authority, and submitted to the *risa* of the German authorities. Free passes will be granted, in right of their position, to candidates, to the provincial deputations, and to the deputies to the assembly. The free movement of the persons who have received the authorization indicated will be permitted only between six in the morning and six in the evening.

ARTICLE XI.—The city of Paris shall pay a municipal contribution of war amounting

to two hundred millions of francs. This payment must be effected before the fifteenth day of the armistice—the mode of payment to be determined by a mixed German and French commission.

ARTICLE XII.—During the armistice nothing shall be taken away from the public objects of value which may serve as pledges for the recovery of the war contributions.

ARTICLE XIII.—The transport into Paris of arms, of munitions, or of articles entering into their manufacture, is forbidden during the term of the armistice.

ARTICLE XIV.—Immediate steps shall be taken for the exchange of all prisoners of war made by the French army since the commencement of the war. For this end the French authorities will hand, as promptly as possible, nominal lists of the German prisoners of war to the German military authorities at Amiens, at Le Mans, at Orleans, and at Vesoul. The liberation of the German prisoners of war will be effected upon the points nearest to the frontier. The German authorities will deliver in exchange, on the same points and in the briefest possible time, to the French military authorities, a like number of French prisoners of war of corresponding grades. The exchange will extend to civil prisoners, such as captains of ships of the German merchant navy, and the civilian French prisoners who have been interned in Germany.

ARTICLE XV.—A postal service for letters not sealed will be organized between Paris and the departments, through the medium of the headquarters at Versailles.

In faith of which, the undersigned have appended to the present convention their signatures and their seals.

Done at Versailles, the 23th of January, 1871.

BISMARCK.
FAVRE.

No. 205.

Mr. Moran to Mr. Fish.

No. 256.]

LEGATION OF THE UNITED STATES,
London, March 8, 1871. (Received March 23.)

SIR: I have the honor to send herewith two copies of correspondence, just presented to Parliament, respecting the departure of Lord Lyons from Paris at the time of its investment by the Germans. His lordship's letter of the 26th ultimo will, no doubt, attract your attention, as it gives his reasons for going to Bordeaux, and his explanation of the motives which induced Mr. Washburne to remain at his post.

I am, &c.,

BENJAMIN MORAN.

CORRESPONDENCE WITH LORD LYONS RESPECTING HIS DEPARTURE FROM PARIS, AND PROVISION MADE FOR THE WITHDRAWAL OF BRITISH SUBJECTS.

No. 1.

Lord Lyons to Earl Granville.

PARIS, *August 26, 1870. (Received August 27.)*

MY LORD: I have the honor to inclose herewith to your lordship, extracted from the "Journal Officiel" of this day, a decree of the governor of Paris concerning the expulsion of persons without the means of subsistence.

I have, &c.,

LYONS.

[Inclosure in No. 1.]

[Translation.]

PARIS, *August 24, 1870.*

In virtue of the law of the 9th of August, 1849, on the state of siege.

In virtue of the decree of the 7th instant, by which Paris has been declared in a state of siege.

In virtue of Article 75 of the decree of the 24th of December, 1811, relative to the organization and service of the staff of fortified places, which says:

"In every place in a state of war if the minister or the general gives the order, or if the enemy's troops come within less than three days' march of the place, the governor or commandant is immediately, and without awaiting the state of siege, invested with the necessary authority:

"1. To send away the useless mouths, foreigners and persons pointed out by the civil or military police."

In virtue of the law of the 9th of July, 1852, relative to the dismissal from the department of the Seine of criminals, vagabonds, beggars, and other people addicted to practices dangerous to persons or property,

The governor of Paris decrees as follows:

Article 1. Every individual without the means of subsistence, whose presence at Paris would constitute a danger to public order or to the security of persons and property, or who should do anything likely to weaken or hinder the measures of defense and general safety, shall be expelled from the capital.

Art. 2. Any infraction of the decrees of expulsion will be brought before the military tribunals.

GENERAL TROCHU.

No. 2.

Lord Lyons to Earl Granville.

PARIS, August 26, 1870. (Received August 27.)

MY LORD: In my previous dispatch of to-day I have transmitted an extract from the Journal Officiel, containing an order of the governor of Paris. This document recites a decree of 1811, which authorizes the governor of places threatened by the enemy to send away all "useless mouths," and refers to other enactments of a similar kind; and it orders the immediate expulsion from Paris of persons without means of subsistence, whose presence may be considered dangerous.

The order is already in course of execution, and has already been applied to several English subjects.

The result of this, and of still more stringent measures which are likely to be adopted, will create great distress among numerous British subjects, and place those who have not the means of paying their passage to England in a very awkward, not to say very dangerous, situation. Under the circumstances, I might perhaps take upon myself to direct the consul to provide for the conveyance of these persons to England, under the circular of the 1st of April last. But as the cases are likely to be extremely numerous, I think it right to direct your lordship's attention to the subject without delay.

Probably the most practical way of insuring economy and a satisfactory investigation of the cases of British subjects requiring assistance to go to England under present circumstances, would be to confide to the committee of the charitable fund the management of a sum granted for the purpose.

I have, &c.,

LYONS.

No. 3.

Earl Granville to Lord Lyons.

FOREIGN OFFICE, September 8, 1870.

MY LORD: I have received your excellency's dispatch of the 26th August, representing that great distress might be caused among numerous British subjects, and that those who had not the means of paying their passage to England might be placed in a very awkward, not to say perilous, situation, by a decree issued by the French government on the 24th of that month, ordering the immediate expulsion from Paris of persons without means of subsistence, whose presence might be considered dangerous, which decree was likely to be followed by still more stringent measures. Your excellency further says that, as the cases are likely to be extremely numerous, you think it right, instead of acting under the present authority contained in the circular of the 1st of April last, and directing the council to provide for the conveyance of such persons to England, to call my attention to the matter without delay, suggesting at the same time that the most practical way of insuring economy and satisfactory investigation would be to intrust the committee of the British charitable fund with the management of a sum granted for the purpose of assisting such indigent persons to return to England.

I lost no time in communicating with the board of treasury. But I am only able to-day to inform your excellency that, although in principle the relief of persons who

have gone abroad for their own purposes, and who suffer by war or by other general calamities, appears to that department to be a charge rather on private charity than on public funds, yet their lordships do not desire to exclude from consideration the most extreme cases, in which persons unexpectedly thrown out of employment in a foreign country, and obliged by the government to depart, are left absolutely without means, either of their own or from charitable sources.

The board of treasury say, therefore, that they are prepared to sanction the relief from public funds in cases of this kind, where it clearly appears that no other resource is left; and I have, accordingly, to authorize your excellency to give relief in conformity with the views of that department in urgent cases.

I am, &c.,

GRANVILLE.

No. 4.

Lord Lyons to Earl Granville.

Tours, October 9, 1870. (Received October 12.)

MY LORD: Your lordship did me the honor to inform me that you had received assurances from the Prussian government that the members of the diplomatic body at Paris would receive at the hands of the Prussian authorities all the usual courtesy to which they were entitled, although it was difficult to specify beforehand the particular course which would be adopted.

I observe, however, that in answer to a request conveyed by M. Jules Favre from the diplomatic body remaining in Paris, to be warned in case it should be intended to bombard the town, and given the means of quitting the place, Count Bismarck, in a letter dated on the 26th ultimo, at Ferrières, answers that military considerations forbid his making any communications respecting the time and manner of an attack upon the fortress of Paris.

I cannot conceal from your lordship the anxiety which this letter causes me to feel for the safety of the members of Her Majesty's embassy, whom I have left in Paris, as well as for that of the numerous British subjects who have, I fear, in despite of my warnings, imprudently remained there. As regards these last, your lordship is aware that, both by advice given specially to individuals and by general notices, I did all in my power to induce Her Majesty's subjects to withdraw in time; and that I published in the newspaper and distributed among them a printed caution that those of them who remained after the warnings given would do so at their own risk and peril; and that if they delayed any longer they might not afterwards be able to get away. Notwithstanding my pressing counsels, some remained voluntarily, while others were, from illness or other causes, unable to move. I cannot, therefore, help submitting to your lordship a request that the Prussian authorities, if they really resolve on bombarding Paris, should be pressed to give these inoffensive neutrals an opportunity of previously quitting the place. The funds which were in the hands of the British charitable fund would, I should hope, suffice to pay the expense of removing those who are unable to pay for their own journey; and, in case of need, Mr. Wodehouse might be authorized to act upon the instruction contained in your lordship's dispatch of the 8th ultimo.

But it is, naturally, with regard to the members of the embassy that I feel most uneasiness. Count Bismarck states in his letter that he cannot defer to the opinion of those who regard the interior of the Paris ramparts and redoubts during a siege as a proper place for carrying on diplomatic intercourse. This observation may be, to a certain extent, well founded, so far as it regards those chiefs of missions who, having of their own free will chosen to remain in Paris, ask for special facilities for sending or receiving dispatches; but I submit that it cannot at all apply to a case like that of Mr. Wodehouse, who has staid in Paris by order of his official superiors, in order to give, as long as possible, protection to his fellow-subjects, and to preserve, as far as possible, the archives of the embassy and the government property from injury. Nor can Count Bismarck's objection affect the case of Captain Hore, who was too ill to leave Paris before it was invested. Captain Hore had indeed been for some time previously so seriously unwell as, notwithstanding the zealous efforts he made, to be scarcely able to discharge his duties. During several days before I came away he was confined to his bed in a very critical state, and I was prevented from taking him with me by the declaration of his physicians that he was not in a state to be moved. There are, moreover, servants of the embassy and servants of my own who have been kept in Paris in discharge of their duties.

I trust, therefore, that your lordship will not deem me presumptuous in earnestly requesting that special representations may be made to the Prussian authorities in order to induce them to give the persons belonging to, or employed by, the embassy the means of acting upon the instructions which I left with them to come away if the

place should be threatened with bombardment or there should be any other imminent danger.

I have, &c.,

LYONS.

No. 5.

Earl Granville to Count Bernstorff.

FOREIGN OFFICE, October 14, 1870.

M. L'AMBASSADEUR: On the departure from Paris of Her Majesty's ambassador, he felt it his duty to leave behind him one of the second secretaries of the embassy, Mr. Wodehouse, in order that he might afford, as long as possible, protection to such subjects of Her Majesty, as, from various causes, had not already withdrawn from Paris, and that he might, as far as he was able, preserve the archives of the embassy and other property belonging to Her Majesty's government from injury. Together with these, he directed to remain certain servants attached to the embassy and to himself, for the discharge of their usual duties.

Colonel Claremont, military attaché to the embassy, and Captain Hore, the naval attaché, the latter being wholly incapacitated by illness from leaving Paris, remained behind under the instructions and with the sanction of Her Majesty's ambassador after his departure.

My object in now addressing your excellency is to request you, without loss of time, to bring the case of these public officers and servants, and generally of the remaining British residents, before the King of Prussia, and those acting under His Majesty's orders, whether in a civil or military capacity, and to express the earnest hope of Her Majesty's government that, before the operations at Paris assume a character by which their lives may be endangered, those persons who are in the service of the British government, and residing hitherto in Paris in execution of their public duties, as well as all other inoffensive British subjects, may be allowed an opportunity to quit the place; and Her Majesty's government do not doubt that such a request will readily be acceded to by the King of Prussia and His Majesty's advisers.

I am, &c.,

GRANVILLE.

No. 6.

Earl Granville to Lord Lyons.

FOREIGN OFFICE, October 15 1870.

MY LORD: With reference to your excellency's dispatch of the 9th instant, I inclose, for your information, a copy of a letter which I have addressed to Count Bernstorff,* requesting him to obtain from the King of Prussia permission for the members of Her Majesty's embassy, together with the servants and other British subjects, to leave Paris.

I am, &c.,

GRANVILLE.

No. 7.

Earl Granville to Lord Lyons.

FOREIGN OFFICE, October 18, 1870.

MY LORD: I transmitted to your excellency, in my dispatch of the 15th instant, a copy of a letter which I had addressed to Count Bernstorff, requesting him to obtain for the members of the British embassy remaining in Paris, and such inoffensive British subjects as might wish to accompany them, permission to withdraw from the French capital before a bombardment.

Count Bernstorff informed me yesterday, as I have stated to your excellency by telegraph, that the permission would be granted, and that a nominal list of the British subjects desiring to avail themselves of it should be drawn up by Mr. Wodehouse.

Count Bismarck said further that he concluded your excellency would communicate with the government at Tours on the subject, which I accordingly requested you at

* No. 5.

once to do, and to inform me of the result, and, if possible, to make it known at the Prussian headquarters, either directly to Count Bismarck or through Colonel Walker.

In requesting Count Bernstorff to thank Count Bismarck for his compliance with the wishes of Her Majesty's government in this respect, and informing him that I had communicated it to your excellency, I have further said that, as I could only communicate with Mr. Wodehouse through the Prussian headquarters, I should be obliged to Count Bismarck if he would send to Mr. Wodehouse a message from me, apprising him of the consent of the Prussian government, and desiring him at once to prepare and forward to the Prussian headquarters a list of British subjects who might desire to leave Paris; and I told him that your excellency was instructed to communicate with the government at Tours on the subject. I added that, as regards Colonel Claremont, he should follow the course adopted by the military attachés of other countries who may have remained in Paris.

I am, &c.,

GRANVILLE.

No. 8.

Lord Lyons to Earl Granville.

Tours, October 18, 1870. (Received October 22.)

MY LORD: I had this morning the honor to receive your lordship's telegram of yesterday informing me that the Prussian authorities had consented to allow the members of the embassy and other British subjects who should accompany them from Paris to pass the lines of the German army.

I went immediately to the Comte de Chaudordy, and after placing in his hand a memorandum on the subject, begged him to move the government delegation here to do all that depended upon it to facilitate the departure of my countrymen from Paris.

M. de Chaudordy said that he could answer at once for the willingness of the government here to do all in its power; but that, of course, the necessary arrangements must be made at Paris with the government and the military authorities there. If, however, I would compress an instruction to Mr. Wodehouse into a very small compass, he would undertake to send it for me to Paris in a way which he had reason to hope would prove to be both speedy and safe.

I accordingly intrusted to M. de Chaudordy a short letter in cipher, in which I informed Mr. Wodehouse that your lordship had received through the Prussian ambassador in London an assurance that the members of the British embassy and inoffensive British subjects coming out of Paris would be allowed by the German military authorities to pass. I added that it would be necessary that a list of these British subjects should be drawn up by Mr. Wodehouse for communication to the German authorities; and I desired him to settle the arrangements with the French government at Paris, and, if possible, to make the result known to Count Bismarck either directly or through Colonel Walker. I further recommended Mr. Wodehouse to take every means to give notice to all British subjects of this opportunity for them to leave Paris; and I directed him, moreover, to make such arrangements for the safe custody of the archives and of the embassy house and property as should appear to be most advisable under the circumstances. Finally, I desired him to take advantage of any means he might have of communicating with me.

Some hours after I had delivered the letter to Count Chaudordy for transmission to Mr. Wodehouse, I received your lordship's telegram of this day, informing me that you had requested the Prussian ambassador in London to beg Count Bismarck to forward a communication from you to Mr. Wodehouse on the subject of the removal of the members of the embassy and other British subjects from Paris. I trust that the result will be that Mr. Wodehouse will thus receive, in a more certain and regular way than that to which I have been obliged to have recourse, complete instructions from your lordship respecting this matter.

I have the honor to inclose a copy of the memorandum which I gave to M. de Chaudordy.

I have, &c.,

LYONS.

[Inclosure.]

Memorandum.

Le Gouvernement Prussien est prêt à laisser passer librement le personnel de l'ambassade d'Angleterre qui se trouve encore à Paris, ainsi que les sujets britanniques

inoffensifs qui voudraient l'accompagner, et dont une liste serait rédigée par M. Wodehouse.

Lord Lyons est chargé par Lord Granville de se concerter sans retard à ce sujet avec le gouvernement français.

Tours, le 18 Octobre 1870.

[Translation.]

The Prussian government is ready to allow a free pass to the *personnel* of the English embassy now in Paris, as well as to the inoffensive British subjects who may wish to accompany them, and a list of whom may be drawn up by Mr. Wodehouse.

Lord Lyons is charged by Lord Granville at once to concert arrangements on the subject with the French government.

No. 9.

Lord Lyons to Earl Granville.



TOURS, October 25, 1870. (Received October 29.)

MY LORD: I have the honor to transmit a copy of a dispatch in which I have inclosed to Mr. Wodehouse copies of your lordship's instructions respecting his withdrawal from Paris, and respecting the relief of British subjects. I hope to have an opportunity of forwarding the dispatch to Mr. Wodehouse by Prince Wittgenstein, the military attaché to the Russian embassy, who is expected daily at Tours on his return to Paris.

I venture to suggest to your lordship's consideration the question whether the mere authority to act upon your dispatch to me of the 8th ultimo conveys beyond a doubt to Mr. Wodehouse sufficient latitude with regard to expenditure in the present emergency.

The permission granted by the Prussian authorities to British subjects to quit Paris appears to be confined to those of whom a list shall be drawn up by Mr. Wodehouse, and who shall withdraw from the place in company with him. Mr. Wodehouse will, therefore, have the arduous and laborious task, first, of taking steps to insure notice of the opportunity coming, if possible, to the knowledge of all the British subjects scattered over Paris; next, of forming a complete list of those who desire to go; then of bringing them all together at a given day and hour; then of making arrangements that they may have means of conveyance through a tract of country in which not only is all communication by railroad impossible, but in which the bridges have been broken down and the ordinary roads obstructed; and lastly, of providing under unusual difficulties for the subsistence of the whole party, until they have passed both the Prussian and French lines, and reached a district in which the ordinary modes of locomotion and subsistence are available.

It is to be observed also that Mr. Wodehouse will probably be unable, at all events at the moment, to count upon any considerable contribution to the expenses, either from the majority of the English leaving Paris or from charitable sources. The great bulk of the English now there are people in a humble class of society, who have been deprived of their livelihood by the consequences of the siege; and even among those in more fortunate circumstances we have reason to suppose that many are in temporary distress from the impossibility of obtaining remittances of money from England.

I would venture, therefore, to suggest that a sum of money adequate to the emergency should be placed at Mr. Wodehouse's disposal. I have said in the dispatch to him that I presume the bankers of the embassy, Messrs. de Rothschild, would make no difficulty in furnishing him with the money necessary; but I cannot be quite sure that this will be the case under present circumstances, and I therefore trust that your lordship will cause measures to be taken to insure his not being exposed to any embarrassment on this head, and, above all, to guard against his being obliged by want of funds to leave behind any one who may desire to come away from the perils of the siege.

It would be difficult to form an estimate of the sum required without a knowledge of various particulars, which I cannot obtain here. Among these are the number of the English who would choose to leave Paris, the route which the military authorities would require them to take, and the price of conveyances and subsistence.

I cannot doubt that the Prussian authorities, having agreed to permit the departure of British subjects, will be willing to facilitate such communications between Her Majesty's government and Mr. Wodehouse as are essential to give effect to that permission, and they will, of course, give Mr. Wodehouse the means of settling with them the necessary arrangements for the journey through their lines.

Your lordship will see that in my dispatch to Mr. Wodehouse I have suggested that Mr. Atlee and Mr. Lascelles, or one of them, might be sent to his assistance. I am, moreover, inclined to think that if the party of English should prove to be very numer-

ons, it might be advisable that he should have at his disposal some person possessing practical experience in arranging and managing expeditions of the kind.

I purpose sending a copy of this dispatch by Prince Wittgenstein to Mr. Wodehouse. I have, &c.,

LYONS.

[Inclosure.]

Lord Lyons to Mr. Wodehouse.

TOURS, October 25, 1870.

SIR: I inclose for your information and guidance the following papers relative to your own withdrawal and that of other British subjects from Paris:

1. Copy of dispatch from me to Earl Granville of the 9th instant.
2. Copy of dispatch from Lord Granville to me of the 15th instant.
3. Copy of note from Lord Granville to Count Bernstorff, dated 14th instant.
4. Copy of dispatch from Lord Granville to me of 18th instant.

I have, moreover, received a telegram from Lord Granville, in which, in consequence of having received from you information that there was great distress among British subjects, and that some of them, even if a free passage were granted, would be unable to avail themselves of it for want of money, his lordship desires me to authorize you to act on his instruction to me of the 8th ultimo. Consequently, I add a copy of that instruction to the other papers inclosed herein.

I have, in obedience to Lord Granville's orders, addressed myself to the government delegation here, and have been answered that they are quite willing to do all in their power to facilitate the departure from Paris of yourself and all other British subjects who may be desirous of quitting the place; but that, of course, the necessary arrangements must be made with the government and military authorities there. I have, accordingly, to desire you to settle these arrangements with the government at Paris, and, if possible, to make the result known to Count Bismarck, either directly or through Colonel Walker. You should also take advantage of any opportunity you may have of communicating it to me.

You will, naturally, use every means in your power to cause notice of this opportunity of leaving Paris to be brought to the knowledge of all the British subjects left in the place.

You will make such arrangements for the safe custody of the archives, and of the embassy house and property, as may appear to you to be most advisable under the circumstances.

I presume that the bankers of the embassy, Messrs. de Rothschild, will make no difficulty in furnishing you with the money necessary to enable you to carry out Lord Granville's instructions for the relief of British subjects.

You may, perhaps, desire to have some more assistance than you can procure at Paris under present circumstances, in the very arduous and laborious task of giving notice to British subjects, drawing up the list of them, collecting them, and bringing them through the lines of the French and German armies. In that case, Mr. Atlee and Mr. Lascelles, or one of them, might be directed to go to your assistance, and to convey to you, if necessary, money to defray the expenses of the relief and removal of the indigent British subjects. Her Majesty's government would, I feel sure, easily obtain from the German authorities safe-conducts for these members of the embassy.

I hope that you will have the means of making your wishes known to Lord Granville or to me. You need not hesitate to send your dispatches on these subjects to his lordship or to me open, if their passage through the Prussian lines would be thereby facilitated. In a matter of humanity, in which the lives of many of our inoffensive countrymen may be at stake, any formal scruples on this head would be entirely out of place. I shall myself send the present dispatch to you unsealed.

I am, &c.,

LYONS.

No. 10.

Lord Lyons to Earl Granville.

BORDEAUX, December 27, 1870. (Received January 1, 1871.)

MY LORD: I have the honor to submit to your lordship a copy of a letter, dated Paris, November 23, and signed "Pollock," which reached me the day before yesterday. I know nothing of the writer.

The object of the letter is to call attention to the cases of the large number of British subjects who are still in Paris, and who are now desirous of getting away.

Major General Claremont will, no doubt, have been able to give your lordship full information as to the prospect there may be of enabling these British subjects to qu

Paris. So far as my knowledge of the matter goes, I have reason to believe that the obstacles are now caused by the French as much as by the German authorities, and that, in fact, the removal of any considerable number of persons from Paris under flag of truce is necessarily attended by circumstances seriously embarrassing the operations of the besieged garrison.

Your lordship is well aware of the urgency with which I pressed British subjects to leave Paris before I came away myself, and of the distinct notice I gave that those who remained after the warnings they had received would do so at their own risk and peril, and might not be able to get away afterward. Still I venture to recommend the matter to your lordship's attention, and to suggest in particular that an opportunity of leaving the place should certainly be given to neutrals, if there be any immediate danger of its being bombarded.

I have, &c.,

LYONS

[Inclosure.]

Mr. Pollock to Lord Lyons.

PARIS, November 23, 1870.

MY LORD: I have the honor to recall to your excellency's attention that there still remain here about one hundred of Her Majesty's subjects very unwilling prisoners, and to earnestly solicit an early intercession on their behalf.

My personal dread of having to spend Christmas (usually a season of happy family reunion) in this desolate city, decides me to write also to influential friends in the House to lay our unfortunate case before Lord Granville.

Trusting that your lordship's firm representation will suffice to change the present capricious decision of the authorities,

I have, &c.,

POLLOCK.

No. 11.

Earl Granville to Mr. Odo Russell.

FOREIGN OFFICE, January 23, 1871.

SIR: I telegraphed to you on the 21st instant, stating that Her Majesty's government were anxious to make arrangements for the safe withdrawal from Paris of such British subjects as might wish to escape from the dangers to which they were exposed by the bombardment; and I requested you to inquire whether permission would be granted to a British diplomatic or consular officer to enter Paris for the purpose of making such an arrangement. I added that, if the requisite permission were granted, there were several courses open, any one of which might be adopted as might seem most expedient; either it might be advisable to send Mr. Wodehouse or Mr. Atlee from England, or a general authority might be given to Count Bernstorff to grant a pass to Versailles to any person named to him; or some Englishman might be found at Versailles or in Paris to whom the task might be confided.

The telegram which I received from you on the 22d, stating that the military authorities refused to permit any one to enter Paris until after the capitulation, made it clear that none of these courses were practicable, except, to a limited extent, that last mentioned; and I therefore telegraph to you to-day to confine yourself to endeavoring to arrange with Mr. Blount for the protection of his fellow-countrymen in Paris, and for extending to them further relief, if the sum now placed at the disposal of the charitable fund should, contrary to expectation, prove insufficient for the purpose of relieving the immediate pressure, both up to and after the capture of the city. I added that I should wish you to inform me without delay of the steps which you might take in the matter.

I am, &c.,

GRANVILLE.

No. 12.

Lord Lyons to Earl Granville.

BORDEAUX, January 20, 1871. (Received January 29.)

MY LORD: In my dispatch of the 27th ultimo I spoke of the British subjects still in Paris, and suggested that an opportunity of leaving the place should certainly be given to neutrals, if there should be any immediate danger of its being bombarded.

The bombardment has since been actually begun, and, so far as I know, without any previous notice having been given, and without any means having been afforded for neutrals to escape from the city.

I have just been informed by the Italian minister and the Spanish chargé d'affaires here that their governments have been in communication with the Prussian authorities at Berlin on the subject, and have been given reason to expect that the commanders of the German forces will allow each of them to send a diplomatic or consular officer into Paris to make arrangement for the removal of his countrymen. My two colleagues have accordingly determined to dispatch at once secretaries of their legations to Versailles and Paris for this purpose.

The French government here furnishes the secretaries with safe-conducts to secure their passing unmolested through the French lines.

I have thought it right to forward this information to your lordship as speedily as possible by telegraph.

I am, &c.,

LYONS.

No. 12.

Lord Lyons to Earl Granville.

BORDEAUX, January 23, 1871. (Received January 29.)

MY LORD: On the receipt of your lordship's telegram of the day before yesterday I went to the Comte de Chaudordy, and begged him to send at once to the French chargé d'affaires in London instructions to give a letter for the government at Paris and a safe-conduct to any diplomatic or consular officer who might be selected by Her Majesty's government to proceed to the bombarded city to make arrangements for removing British subjects.

M. de Chaudordy promised to send a telegram at once to M. Tissot to this effect. He said that he presumed that the French military authorities would everywhere recognize and respect the safe-conduct from the embassy in London, especially as the bearer of it would be also provided with a letter from the chargé d'affaires to the Paris government. He suggested, however, that it would still be well that the person sent by your lordship should have a safe-conduct from the delegation here if one could be sent to him in time.

I understand that the secretary sent by the Italian minister is to go, in the first instance, to Berlin, while the secretary of the Spanish legation is to endeavor to pass through the French and Prussian lines, and thus reach Versailles by the direct route from this place.

I am myself of opinion that this endeavor will be attended with considerable risk, and that in all probability the Spanish secretary will not gain anything in point of time by attempting to take the direct route.

I may, perhaps, suggest that, in any case, a letter from your lordship to the government at Paris would have very great weight in inducing them to permit the withdrawal of British subjects and to afford facilities for effecting it.

I have, &c.,

LYONS.

No. 14.

Lord Lyons to Earl Granville.

BORDEAUX, January 26, 1871. (Received January 31.)

MY LORD: I have the honor to transmit to your lordship herewith a letter which I have written to Mr. Blount, 3, Rue de la Paix, Paris, who has, as your lordship has just done me the honor to inform me, been appointed Her Majesty's counsel in that city. It contains a list of some pressing applications which have been made to me respecting persons and property in Paris, and which I desire to recommend to Mr. Blount's attention.

I shall be much obliged if your lordship will direct the letter to be sent to Paris in the most expeditious manner. It is open, and there is no objection to its being forwarded in that state, and submitted, if necessary, to the inspection of any French or German authorities.

I have, &c.,

LYONS.

[Inclosure.]

Lord Lyons to Mr. Blount.

BORDEAUX, January 26, 1871.

SIR: I subjoin a list of applications which have been made to me respecting persons and property in Paris, and I shall be very much obliged if you will give such attention to the case as circumstances may allow when this dispatch reaches you.

I am, &c.,

LYONS.

No. 15.

Lord Lyons to Earl Granville.

BORDEAUX, February 26, 1871. (Received March 1.)

MY LORD: I perceive that observations have been made in both houses of Parliament on the fact of my having left Paris in the month of September last, and on the steps which I took to provide for the protection of British subjects there during my absence.

I do not think it necessary to say much here on the first point. I was advised to remove to Tours by M. Jules Favre, and pressed to accompany them to that place by the representatives of the great powers of Europe. I traveled to Tours with the representatives of Austria, Italy, Russia, and Turkey, and we were followed immediately by the Spanish chargé d'affaires, and afterward by the representatives of other powers. In fact, the only chief of a diplomatic mission from any great power who staid at Paris was Mr. Washburne, the United States minister. As representing a nation which punctiliously abstains from taking part in the political affairs of Europe, Mr. Washburne had not the same reasons as representatives of European powers for removing to a place at which he could serve as a means of communication between his Government and the government of France; and as being charged with the protection of North German subjects in France, he was allowed by the German military authorities facilities for correspondence during the siege which were denied to the representatives of other governments. I conceded, at the time, that it was my duty neither to reject the advice of the French minister for foreign affairs, nor to separate myself from my principal colleagues, and I thought it would be, on all accounts, inexpedient for me to allow myself to be shut up in Paris and to be deprived of all speedy and satisfactory means of communicating with your lordship. My subsequent experience has, I confess, confirmed me in these opinions. On the day after I left Paris all communication by road with that place was intercepted, and on the following day the last telegraph wire was cut. The diplomatists who were left in the besieged city were refused by the German authorities positively all facilities for corresponding with their governments otherwise than by letters left open for the inspection of those authorities. My having resided at the seat of the delegation of the government at Tours, and having followed them to Bordeaux, have been accepted by the French as manifest proofs of the desire of Her Majesty's government to maintain intimate and friendly relations with them, while my doing so has afforded Her Majesty's government the readiest and most effectual means of maintaining such relations in fact.

On the question of the provision made by me for the protection of British subjects when I myself left Paris, it may, perhaps, be desirable that I should make some explanation in addition to the reports which I addressed to your lordship at the time. The objections made against the course I took appear to resolve themselves into a complaint that I did not leave Mr. Atlee, the consul, at Paris, instead of or in addition to Mr. Wodehouse, one of the secretaries of the embassy.

What happened was this: When it became apparent that an attack upon Paris was imminent I naturally became desirous of reducing the number of members of the embassy, whom I kept with me there, to the lowest point compatible with the performance of the work. Much of the ordinary business, and in particular the not inconsiderable part of it caused by the passage of Queen's messengers, and the necessity of transmitting without delay dispatches brought by them, was sure to be suspended by the siege; consequently, I thought that the services of two of the members of the chancery might be temporarily dispensed with. It so happened that two of these had wives and families, while the rest were unmarried. I therefore selected, as most proper to send away, the two married men, of whom Mr. Atlee was one.

As your lordship is aware, although Mr. Atlee holds a commission as consul, his principal functions are those of attaché librarian and registrar to the embassy. In ordinary times there are some technical advantages in having a person with the character of consul in immediate connection with the embassy, among which may be reck-

oned his collecting, on account of Her Majesty's government, consular fees which considerably exceed in amount the consular salary allowances.

Under the circumstances, however, under which my departure took place, there were certainly no special functions which could be better discharged by a consul than by a secretary of the embassy. I had no power to take out of the hands of the committee of the British charitable fund the management of the charitable contributions for the relief of distressed British subjects. I had most certainly no wish to do so. On the contrary, I had the fullest confidence in the members of that committee, whom the most generous motives induced to stay in Paris; and the noble and unwearying devotion with which they have discharged the benevolent duties they undertook have more than justified the high opinion I had formed of them. In fact, the object which rendered the presence of a member of the embassy in Paris desirable was that he should communicate officially with the French government, and exercise an influence with them on behalf of Her Majesty's subjects; and it appeared to me that I should better provide for the attainment of this object by presenting a secretary to the minister for foreign affairs as representative of the embassy than by simply leaving a consul in the town. I accordingly presented Mr. Wodehouse to M. Jules Favre in that capacity. In fact, while Mr. Wodehouse could perfectly well perform all the functions that could be discharged by a consul, he was in a much better position than a consul could have been for communicating efficiently with the minister for foreign affairs or other French authorities.

I was naturally anxious not to expose any of Her Majesty's servants unnecessarily, and I conceived that, by stationing Mr. Wodehouse and General Claremont, the military attaché at Paris, I made the best provision in my power for the protection of the British subjects who remained there.

I left with Mr. Wodehouse orders to come away from Paris himself if the place should be threatened with immediate bombardment; and in that case to do his utmost to obtain a safe passage out for all British subjects. I considered that in such a contingency the protection of any of our countrymen who might still remain could not be transferred to better hands than to those of General Claremont, who, from his intimacy with General Trochu and his large acquaintance among French military men and well-known influence with them, would have peculiar means of befriending and assisting British subjects if actual danger from military operations should be imminent.

As the minister of marine was established at Tours, and as it was manifest that no naval intelligence could be attainable during the siege, I should have brought Captain Hore, the naval attaché, away with me if he had not been too ill to travel.

The orders I left with him were, as your lordship is aware, to rejoin me as soon as his health should admit of his doing so.

Since I left Paris I have had no other active duty to perform in the matter than to endeavor to forward orders from your lordship to Mr. Wodehouse. But I feel confident that your lordship will consider that my whole correspondence with you, both before and since I left Paris, shows that I have been in constant anxiety respecting the British subjects there, and earnestly desirous that every effort should be made for their practicable relief.

I subjoin a list of some of the principal dispatches I have had the honor to address to your lordship on the subject.

I have, &c.,

LYONS.

NOTE.—See also "Franco-German War Papers, No. 1, (1871,)" Nos. 51, 60, 84, 86, 112, 113, 130, 146, 147, 153, 239, 265, 311, and 314; and previous dispatches in this series.

No. 206.

Mr. Fish to General Schenck.

No. 4.]

DEPARTMENT OF STATE,
Washington, May 25, 1871.

SIR: The Senate having advised and consented thereto, the President has ratified the treaty between the United States and Great Britain for the settlement of pending questions between the two countries signed at Washington on the 8th instant, and I now transmit to you by

the hands of Mr. Bancroft C. Davis, of Massachusetts, who goes out as bearer of dispatches, the American ratification to be exchanged against that of Her Britannic Majesty, with full power to enable you to effect that object. You will, accordingly, upon the receipt of this dispatch, inform Her Majesty's principal secretary of state for foreign affairs that the treaty has been ratified on our part, and that you are authorized to exchange the ratifications with such persons as may be duly empowered for for that purpose on the part of the British government. When the exchange shall have been effected you will execute jointly with the person appointed on behalf of the government of Great Britain duplicate certificates, similar to those which are inclosed, one of which shall be given to the British government, and the other you will forward to this Department.

As soon as the exchange of the ratifications takes place you will please forward the British ratification to the United States by the hands of Mr. Davis.

I am, &c.,

HAMILTON FISH.

No. 207.

Mr. Moran to Mr. Fish.

No. 336.]

LEGATION OF THE UNITED STATES,

London, June 5, 1871. (Received June 20.)

SIR: I have the honor to inform you that his excellency General Robert C. Schenck, accompanied by his family and General Maxwell Woodhull, appointed assistant secretary to this mission, arrived in London on the 3d instant, and that he has this day communicated by note to Lord Granville the office copy of his letter of credence, and taken charge of the legation.

Lord Granville is in Scotland in official attendance upon the Queen, but will return to London in a few days; and it is expected that Her Majesty will arrive at Windsor from Balmoral about the 19th instant. General Schenck's presentation to the Queen cannot well take place before that date unless he should make a special trip to Scotland for the purpose, an event not likely to arise; but he may safely count upon an audience either in London or at Windsor for the delivery of his original letter of credence during the last ten days of this month.

All classes of the British people have given General Schenck a sincere and cordial welcome, and this feeling is more general than has been observed on the occasion of the arrival of a new American minister at this court in the last eighteen years.

In conclusion, I beg to express my best thanks to the President and yourself for having confided to my care the interests of the nation here for so long a period, and for continuing me under General Schenck in the post of secretary of this legation.

I am, &c.,

BENJAMIN MORAN.

No. 209.

General Schenck to Mr. Fish.

[Extracts.]

No. 9.] LEGATION OF THE UNITED STATES,
 London, June 22, 1871. (Received July 6.)

SIR: Last Friday, the 16th, I sent a telegram informing you that the next day was appointed for the exchange of ratifications of the treaty.

A copy of that telegram is inclosed.

I have the satisfaction to inform you that, having produced and exchanged powers from our respective governments, the formal exchange of ratifications took place, as agreed between Lord Granville and myself, on Saturday the 17th, at quarter past 2 o'clock p. m., at the Foreign Office. I note the exact time and place as marking an interesting and momentous point in the history of the two countries and their governments. Besides Lord Granville and myself, there were present and assisting on our part, Mr. Moran, secretary of legation, and General Woodhull, assistant secretary; and on the other side, Lord Tenderden and Mr. Bergne, of the Foreign Office. No particular ceremony was observed beyond the signing of the certificates of our action. There was, however, an interchange of hearty mutual congratulation that we had completed an act which has not only removed all present serious differences, but established, we hope, lasting peace and better understanding between the two countries.

Mr. Bancroft C. Davis, your bearer of dispatches, who brought to me the American copy of the treaty, will carry back with him, as directed, the British copy. He will sail with it from Liverpool on Saturday, the 24th instant, in the steamer Scotia. He has acquitted himself with faithful attention to the trust you committed to him.

I send with the treaty a copy of the power to Lord Granville exchanged with me, and the certificate of the due execution of our authority.

I have, &c.,

ROBT C. SCHENCK.

General Schenck to Mr. Fish.

[Telegram.]

LONDON, June 16, 1871.

Will exchange ratifications to-morrow.

SCHENCK.

Victoria R.

Victoria, by the grace of God, Queen of the United Kingdom of Great Britain and Ireland, Defender of the Faith, &c., &c., &c. To all and singular to whom these presents shall come, greeting:

Whereas, for the better treating of and arranging certain matters which are now in discussion, or which may come into discussion, between us and any other powers and states, we have judged it expedient to invest a fit person with full power to conduct the said discussion on our part: Know ye, therefore, that we, reposing especial trust and confidence in the wisdom, loyalty, diligence, and circumspection of right trusty and right well-beloved cousin and counselor Granville, George Earl Granville, Lord Leveson, a Peer of our United Kingdom, Knight of our most noble order of the Garter, our principal secretary of state for foreign affairs, have named, made, constituted, and appointed, as we do by these presents, name, make, constitute, and appoint him our

nudoubted commissioner, procurator, and plenipotentiary, giving to him all manner of power and authority to treat, adjust, and conclude, with such minister or ministers as may be vested with similar power and authority on the part of any powers or states as aforesaid, any treaties, conventions, or agreements that may tend to the attainment of the above-mentioned end, and to sign for us and in our name everything so agreed upon and concluded, and to do and transact all such other matters as may appertain to the finishing of the aforesaid work, in as ample manner and form, and with equal force and efficacy, as we ourselves could do, if personally present; engaging and promising, upon our royal word, that whatever things shall be so transacted and concluded by our said commissioner, procurator, and plenipotentiary, shall be agreed to, acknowledged, and accepted by us in the fullest manner, and that we will never suffer, either in the whole or in part, any person whatsoever, to infringe the same, or act contrary thereto, as far as it lies in our power.

In witness whereof, we have caused the great seal of our United Kingdom of Great Britain and Ireland to be affixed to these presents, which we have signed with our royal hand.

Given at our court at Osborne, the nineteenth day of July, in the year of our Lord one thousand eight hundred and seventy, and in the thirty-fourth year of our reign.

No. 210.

Mr. Fish to General Schenck.

No. 9.]

DEPARTMENT OF STATE,
Washington, June 20, 1871.

SIR: Referring to my No. 3 of the 19th ultimo, in relation to the pending negotiations of a consular convention with the British government, I will thank you to propose the adoption of an article providing for the administration of oaths by the consuls of either country residing in the other. This you will do at such time and in such manner as may, in your judgment, be most opportune and appropriate. This is especially to be desired by this Government, as consuls are required, by existing Treasury regulations, to see that all invoices verified by them are supported by the oath of the party.

I am, &c.,

HAMILTON FISH.

No. 211.

General Schenck to Mr. Fish.

No. 14.]

LEGATION OF THE UNITED STATES,
London, June 29, 1871. (Received July 12.)

SIR: Yesterday I received, by a messenger from the Foreign Office, a hurried note from Lord Granville, informing me of the success of the forces of the United States against the Koreans. I immediately telegraphed the news to you. In the London morning papers I see that you had the same intelligence yesterday at Washington; but I thought it too important not to make sure of your getting it at the earliest possible moment.

Copies of the note of Lord Granville and of my telegram to you are sent herewith, and my acknowledgment to Lord Granville.

I have, &c.,

ROBT C. SCHENCK.

29 F R

Earl Granville to General Schenck.

FOREIGN OFFICE, June 28, 1871.

MY DEAR GENERAL: A telegram, dated Shanghai, this morning, informs me that your forces gained a victory over the Coreans on Keng-Hoa Island. Corean stronghold was captured and destroyed. Dispatch reports five hundred Coreans killed. Your loss was one officer and two men killed, seven wounded.

Yours, sincerely,

GRANVILLE.

General Schenck to Mr. Fish.

[Telegram.]

LONDON, June 28, 1871.

Lord Granville writes me as follows: A telegram, dated Shanghai this morning, informs me that your forces gained a victory over the Coreans on Keng Hoa Island. Corean stronghold was captured and destroyed. Dispatch reports five hundred Coreans killed. Your loss was one officer and two men killed, seven wounded.

*General Schenck to Earl Granville.*SOUTH KENSINGTON HOTEL,
Queen's Gate Terrace, June 29, 1871.

MY DEAR LORD GRANVILLE: Many thanks for your thoughtful attention in giving me information of the success of the United States forces against the Coreans. I received your note last evening and immediately telegraphed its contents to Mr. Fish; although I see by the morning papers they received the same news yesterday at Washington.

Sincerely, yours,

ROBT C. SCHENCK.

No. 212.

[Extract.]

Mr. Fish to General Schenck.

No. 27.]

DEPARTMENT OF STATE,
Washington, July 18, 1871.

SIR: I have to inform you that about three weeks since Sir Edward Thornton called upon me at my house in the country, to submit for my consideration, under instructions from his government, draughts of proposed instructions from the respective governments to their ministers at Florence, Berne, and Rio, together with draughts of a proposed note which their representatives were to be respectively instructed to communicate to the governments to which they are accredited. I was at the time of Sir Edward's call seriously ill, and forbidden to attend to business. As soon as I was able to do so, I gave these several draughts my serious consideration and suggested several amendments which, I understand, have received the assent of Lord Granville. I have to-day sent out these instructions to the American ministers at Florence, Berne, and Rio, in form (*mutatis mutandis*) as shown the inclosed in copy of the instructions to Mr. Partridge, except that the other notes did not contain the postscript which was on the instructions to Mr. Partridge. This postscript was made necessary by the fact that the Emperor of Brazil is at present in Europe. It is not improbable that, on consultation with Lord Granville, it may be deemed advisable to take steps for bringing the subject directly to the notice of His Majesty. In

that event you will, should the Emperor be in London, exercise your own judgment as to the steps to be taken; should it be proposed to make the communication on the Continent, you will telegraph for instructions. At the same time, Sir Edward desired to bring to my notice proposed instructions to the British and American ministers at Berlin as to the boundary arbitration, and a form of a note on the part of each government to the government of the Emperor of Germany. These I found to be unexceptionable, and instructions in that sense go out by to-day's mail.

* * * * *
I am, &c.,

HAMILTON FISH.

[Inclosure 1.]

Mr. Fish to Mr. Partridge.

No. 5]

DEPARTMENT OF STATE,
Washington, July 18, 1871.

SIR: I transmit to you herewith the draught of a note which you will present to the government of His Imperial Majesty, requesting that His Majesty will be pleased to appoint an arbitrator to form with the arbitrators to be named by the President, by Her Britannic Majesty, by His Majesty the King of Italy, and by the President of the Swiss Confederation, the tribunal of arbitration to which in pursuance of the first article of the treaty signed at Washington on the 8th of May, of which a copy is sent to you herewith, the United States and Her Britannic Majesty have agreed that all the claims growing out of the acts committed by the several vessels which have given rise to the claims generically known as the "Alabama claims" shall be referred.

You will arrange with your British colleague for the simultaneous presentation of your respective notes on this subject.

You will not fail to draw the attention of the minister of foreign affairs, unofficially, to the last clause of the first article, as to the period within which it is hoped that an arbitrator will be named.

I am, sir, your obedient servant.

HAMILTON FISH.

P. S.—It being understood that His Imperial Majesty is now in Europe, a copy of this instruction and of its inclosure will be forwarded to General Scheuck, with instructions to confer with Her Majesty's government, and, if it shall be deemed advisable, in view of the short time remaining for the appointment of an arbitrator, to also take steps to bring the subject there to the attention of His Imperial Majesty.

[Inclosure.]

Draught of note to government of Brazil.

Differences having arisen between the Government of the United States and the government of Her Britannic Majesty, growing out of the acts committed by the several vessels which have given rise to the claims generally known as the "Alabama claims," the high contracting parties, in order to remove and adjust all complaints and claims on the part of the United States, and to provide for the speedy settlement of such claims, have agreed, by the first article of the treaty signed at Washington on the 8th of May, 1871, of which a copy is annexed, to refer all the said claims growing out of acts committed by the aforesaid vessels, and generically known as the "Alabama claims" to a tribunal of arbitration, to be composed of five arbitrators, to be appointed in the following manner, that is to say: One shall be named by the President of the United States; one shall be named by Her Britannic Majesty; His Majesty the Emperor of Brazil shall be requested to name one; His Majesty the King of Italy shall be requested to name one; the President of the Swiss Confederation shall be requested to name one.

The high contracting parties, therefore, reposing entire confidence in the spirit of justice and impartiality which distinguishes His Majesty the Emperor of Brazil, the common friend of the two states, have agreed, in pursuance of the said treaty, to

address themselves severally to His Majesty, and to request His Majesty to be pleased to appoint an arbitrator, to form, with the arbitrators to be named by the other powers above named, the tribunal of arbitration, to which reference agreed upon in the first article of the treaty shall be made.

The undersigned, envoy extraordinary and minister plenipotentiary of the United States, having received the orders of his Government to communicate to His Majesty the Emperor of Brazil the agreement thus made on the part of the United States, has been further charged to express the earnest wish of the President of the United States that His Majesty the Emperor will be willing to afford his good offices on the present occasion, and will be pleased to appoint an arbitrator to act in the premises.

The undersigned has the honor to request the [minister of foreign affairs] to lay this communication before His Majesty, and to be pleased to make known to the undersigned His Majesty's determination with regard to the request therein set forth.

Same *mutatis mutandis* to the governments of Italy and Switzerland.

No. 213.

Mr. Schenck to Mr. Fish.

No. 43.] LEGATION OF THE UNITED STATES,
London, August 8, 1871. (Received August 21.)

SIR: You will have noted the discussion which took place in the House of Commons on Friday last, the 4th instant, on the motion of Sir Charles Adderley for the production of copies of instructions given by Her Majesty's government to their commissioners at Washington. I now send you, in form for preservation, a full report of that debate, taken from the London Times of last Saturday.

I have, &c.,

ROBT C. SCHENCK.

[From the London Times, August 5, 1871.]

Parliamentary intelligence.—House of Commons, Friday, August 4.

THE TREATY OF WASHINGTON.

Sir C. Adderley, in bringing forward this subject, said he was sorry that so important a discussion as he now wished to introduce should come on at such an hour, (nearly half-past 5.) He also greatly regretted the delay which had occurred in that house, having an opportunity of expressing its opinion on the Washington treaty. It was, however, better that the house should express an opinion on that treaty even now than that it should express no opinion upon it at all. If the house were to take no notice whatever of the late Washington treaty, what would be the opinion of the world as to the view taken by this country of that instrument? All that would appear to the world and all that would appear to the arbitrators who were about to arbitrate on the subject, as indicating the feeling of this country in regard to the treaty, would be these three facts—First, that Her Majesty had conferred almost the highest honor on one of the commissioners who negotiated it; second, that the other house of Parliament had refused to indorse a resolution condemnatory of the treaty; and, third, that the House of Commons had apparently given its perfect consent to that treaty by total silence. It would evidently be deemed, from those three facts, by the arbitrators, and by the world at large, that this country thought it had gained a signal triumph and made an extraordinarily good bargain for itself and for its colonies under that treaty, whereas the fact was that this country had made an enormous concession in the interests of peace. [Hear, hear.] Now, it could not be held to be too late to consider that subject in that house, or at least it was equally too late when it was discussed elsewhere; for it was then remarked by one of the highest authorities who took part in the debate upon it in the other house that the treaty was already in honor accepted by this country and signed by Her Majesty's plenipotentiaries.

It was important that the House of Commons should now express some opinion upon that treaty. The arbitration was still before them—the possible burdens thrown on the tax-payers of this country were still before them; and what was still more important, new rules of international and maritime law were established by that treaty, [hear, hear,] and it would be strange if the representatives of a commercial people

like ours did not think it was worth while even to give any opinion upon those new rules. [Hear.] In opening the subject he would state, as briefly as he could, the view he took of the conduct of the government in reference to the treaty. He had not one word to say against the commissioners, personally or otherwise. They appeared to have faithfully and efficiently carried out the instructions they received from the government during the course of the negotiations. The circumstances were simply these: At the end of last year, apparently, Lord Granville thought it necessary to instruct Sir Edward Thornton to urge on Mr. Fish, as absolutely necessary for the maintenance of good relations between the two countries, that there should be a conference on the subject of the fisheries. It was proposed that the conference should be held at Washington, by commissioners to be appointed by both governments. In January the subject was opened to Mr. Fish, who, on the part of the President, accepted the proposal on condition that the Alabama claims should be added to the subjects of the conference. Within forty-eight hours Sir Edward Thornton cordially thanked Mr. Fish for so accepting the proposal, and acquiesced in his condition, further adding the claims of British subjects on the United States, and of American citizens against the British government for damages received in war to the subjects of conference. This was agreed to; and the commissioners were immediately appointed. Now, on these preliminaries he ventured to make this remark; he thought it unfortunate that this country was made a petitioner for a conference, the subjects of which were of far more importance to America than to us. The subject of the fisheries, for instance, which country was most interested in its settlement? The country in possession, and whose rights were undoubted to exclude others from the waters, or the country which wished to be admitted to a share of those rights? He did not mean to say that it was desirable the then state of the fishery question should continue. Far from it. After the cessation of the reciprocity treaty the United States fishermen were admitted to those waters upon licenses, but these were so difficult to maintain that their exclusion was enforced by an armed Canadian flotilla. The position of the two parties was reversed when England became the petitioner. If that was the case with reference to the fishery question, how much more so was it the case with the Alabama claim? England had comparatively no interest in the settlement of that question. The claim had already been discredited by the exaggeration of the Americans themselves. The sober, thinking men of America had tacitly admitted that we stood well in the matter, by their refusing the arbitration when it was first offered. He must say, without any reflection on the statesmen of that great country, it was an unfortunate result of their democratic institutions that they must always have some election cry, and no cry was so effective as a cry against England. Could there be a better election cry than this, with reference to which we stood clear in the eyes of the world? He had only one other remark to make in passing. It appeared that, from the moment when the negotiations began, the subject which was added to the terms of the conference—the Alabama claim—became the principal one, and the fishery claim, for which the conference was got, became subsidiary, and assumed a very minor part in the progress of the negotiations. With reference to the treaty itself, he would merely remark as to the personages chosen to nominate the arbitrators, the Americans had certainly no reason to complain of them. The Emperor of Brazil, both by recent events and his position of neighborhood, was not likely to be unfavorable to the Americans; and the President of the Swiss Republic, by the nature of the institutions of his country, was not likely to be antipathetic to the Americans; while the place where the arbitrators were to meet—Geneva—was about as favorable to the Americans as the city where the negotiations were begun—Washington. The claims connected with Canada were, first, the Fenian claims; second, the fishery claims; third, arrangements with regard to trade; and fourth, the arrangement of boundaries. He drew no distinction between Canadian and English interests. They were both imperial and had been treated throughout as one. The understanding throughout the negotiations was that neither interest should be settled without the other. They were to be established or dropped together. The interests, in fact, were identical. To begin with the Alabama claim, its reference to arbitration was not new. It had been proposed for arbitration by the convention signed by Lord Clarendon and Mr. Reverdy Johnson. What were the terms of that convention? “Whether England had fulfilled her obligations at the time the Alabama sailed.” The American Senate refused to consent to that arbitration. Why? Clearly because they foresaw that England was clear; but now America accepted the arbitration. Why? Because of the change made in the terms of reference. The reference now was, whether England, in 1861, had fulfilled her obligations in new and stricter terms drawn up in 1871. The question now was, whether in a matter of mutual obligation new rules should be adopted different from those on which the obligation rested. When the Americans rejected the first arbitration they put themselves in the wrong; and they accepted it on the new terms, hoping to put us in the wrong. It was on these terms that we had consented to refer the claims. It had been said that no rules had been laid down of international law at the time, and therefore it was necessary to put in terms rules by which this arbitration should be guided. But the language of

the commissioners in conference struck this ground of defense from under them; because they admitted distinctly that the rules on which the arbitration was proposed did not exist, and were not in force at the time—that the principles on which the arbitration was agreed on were not in force at the time the Alabama sailed.

He did not pretend to enter into the merits of these new rules; he should be glad to have the opinion of the honorable and learned member for Richmond (Sir R. Palmer) on that subject. Different views were taken of these new rules. Some argued they were very good for England for the future, but, curiously enough, the ground on which they said so was because England had generally been belligerent. Now he held that was not true. Others took a very strong view against these new rules, and said they were altogether retrograde and in direct antagonism to international law, and that they would either become a dead letter or a very great hardship on English commerce. But it mattered very little what the merits of the new rules might be for the future; what he asked was, whether it was wise or an act of self-stultification to offer ourselves to be tried on the fulfillment of a mutual obligation by rules different from those on which the obligation itself rested. By the new rules it was stipulated that "due diligence" should be given. Did not that itself mean that what the old principles demanded was not "due diligence"—that the "diligence" demanded by the old principles of maritime neutrality was less than "due?" The change was a restriction of the rules by which we were to be tried, and a chance was given of a verdict being found against us. He believed that even on these stricter rules we should stand clear, and it would be distinctly proved that we fulfilled our obligations. But that did not at all justify the proceedings to which he had alluded. He knew it was said by some that, whether this was an act of stultification or not, it was in the interests of peace—that a nation like this ought to be magnanimous—that it was the highest duty of nations to promote peace—that nothing was so noble as magnanimity, and if England could not afford to be magnanimous what nation could? But there were limits beyond which magnanimity became folly, subjecting the actors to suspicion of want of proper spirit and self-respect. When in the eyes of the world we apparently stood clear to agree to change the standard of right in order to give our accusers the advantage and ourselves the chance of condemnation was an act in which magnanimity passed into folly, and the sublime into the ridiculous. With respect to the other minor claims, namely, those of British merchants on the United States, and the claims of the United States on England for damages during war, there was only one question he had to put, and that was put by Lord Cairns in another place, which had received no answer. That question was why there was a limit put on the treaty to the date of the claim of the British merchant, while no limit was placed to the Alabama and the smaller claims. The claims of British merchants for damage in war must be made between the 13th of April, 1861, and the 9th of April, 1865, which was at least six months before the end of the war. But there was no such restriction on the other side. When the question was put why this difference existed, the only answer was that no doubt the American Government would fairly acknowledge any further claim. But that, he thought, was no satisfactory answer; the question remained to be answered. He now proceeded to the last group of subjects, namely, the Canadian claims: First of all, there were the Fenian claims. It seemed to him there was no possibility of defending the course which government had instructed the commissioners to take on the subject of the Fenian claims. Whatever gave weight to the Alabama claims gave tenfold weight to the Fenian claims. With regard to the Alabama, the question was whether the British government had watched her with due diligence so as to prevent her escape. But it was known that fifty regiments of Fenians were drilling from day to day. Their movements were regularly reported to the American Government, but they always excused themselves from interference with their movements on the grounds of electioneering emergencies. On the other hand, we had stretched the law against ourselves to admit the Alabama claims. It was not the amount of the Fenian claims on which he laid stress so much as on the principle which was involved. The second Canadian claim was as to the fisheries. It was said that Canada had the right of setting aside this treaty; but that was not correct. Canada had only the same right in this respect as the Parliament of the country or the Congress of America had; because the treaty necessitated a certain amount of legislation by each of these powers. The Canadian part of the treaty could not be carried out without the passing and repealing of certain acts. But, at the same time, he must say these fisheries were of enormous value to Canada. Their value had been greatly increased by improvements she had herself carried out. They were great nurseries of seamen destined, he hoped, to become one day a great Canadian navy. That being so, these fisheries ought not to be shared in without adequate payment. The only question, therefore, was as to the terms on which both countries should be admitted to these waters. Licenses would be impossible, and exclusion still more so, and the terms mentioned in the treaty were the only ones upon which an arrangement could be made, viz, that all the seas being open equally to both countries, the difference of value should be estimated between them, and the possessors of the least valuable fisheries should compensate by paying the difference. The Cau-

dians would always have an advantage from fishing in their own waters, their trade being already established, besides which they were closer to home. They also had the advantage of superior waters, and that they would not lose by a common right of fishery. Canada, however, seemed to have become blinded by a long-continued controversy until she had identified in her own mind the reciprocity treaty and the fisheries, as if they were inseparable subjects. Good, however, might be done by lookers-on who could take a wider view of the matter, and show that there was no inseparable connection between those subjects, but that, on the contrary, Canada, looking upon her own great fisheries as a means of enforcing free trade, was selling her fisheries for nothing, because free trade was working itself out by a natural process, and the Canadians were certain to obtain it, for some articles were already being freely admitted into the American markets.

Those who put an end to the reciprocity treaty in the middle of the American civil war, when there were no members for the Southern States in Congress, did so, not from protectionist views, but rather from an idea in the minds of the Northern States that the termination of that treaty would so embarrass Canada as to lead to annexation. In that they had been entirely disappointed, for the cessation of that treaty had done infinite good to Canada, having stimulated her to find a large foreign trade independent of the Americans. The trade with America had rapidly increased since the cessation of that treaty, as there were many articles of absolute necessity for which America was dependent on Canada, and America, in imposing duties on these articles, was making her own citizens pay and injuring Canada as little as possible. The Canadians were mistaken in connecting the revival of the reciprocity treaty with the opening of their fisheries, which should stand entirely on its own merits. He was not without hope that Canada would find the terms of the treaty were much more favorable to her than she at first imagined. The money compensation ought to balance the different value of the fisheries, in addition to which the free admission of their fish to the American markets was of such infinite value that it had already reconciled the maritime provinces to the treaty. The dislike to the treaty seemed to be confined to Upper Canada. There were also to be considered the trade arrangements, such as the opening of the St. Lawrence below the 45th parallel of latitude; but that to America was nothing new, beyond its being made a matter of treaty. Again, on the Canadian canals Americans paid only the same duties as the Canadians themselves. Of course, if a war broke out it would be in the power of Her Majesty to close the passage of the St. Lawrence to the Americans. On the other hand, the opening of Lake Michigan to the Canadian merchants was of very great importance, because on the south of that lake was that great emporium of middle America, Chicago, and no greater advantage could be secured to the Canadians than the free navigation of that lake, in addition to which there was the concession of the coasting trade with the ports on those lakes. With respect to the boundaries he had nothing to say, because any dispute was to be settled by arbitration, and to the arbitrators he could offer no objection. With regard to the San Juan boundary, he heard that documents had recently been discovered which would tend to the maintenance of the British claim to that portion of the boundary. On the whole, he was of opinion that the government ought, at all events, to offer some defense of their conduct with regard to the negotiations on these points: First, the mode in which they initiated this conference; secondly, their substitution of the Alabama claims as a primary topic of conference when it was merely an addition to that conference; thirdly, their consent to substitute rules for our trial as to the fulfillment of obligations different from those which were primarily received; fourthly, the obvious inequality of foregoing on our part the similar and much stronger Fenian claims; and, lastly, the limit given to closing the claims of British merchants, whereas no limit was given to the claims against ourselves. On all these points the house should receive information from the government, who ought to defend the instructions they had given to the commissioners whom they had sent to Washington. At the same time the house would, he believed, express a feeling which prevailed throughout the country by saying that, apart from any mistakes in the process of negotiation, it was the cordial and unanimous wish of this country that those negotiations might end in cementing permanent peace and good will between the two countries [cheers] and in removing any irritation or causes of future dispute between two kindred nations, that ought to go hand in hand in promoting the prosperity of the world. [Hear, hear.] However wanting in equity might have been the negotiations on some points, he hoped the mistakes of administration would not hinder kindly relations between these two countries, for such relations would best rest on mutual self-respect. [Hear, hear.] He moved for the production of copies of any instructions given by Her Majesty's ministers to their commissioners at Washington during the negotiations.

Sir Roundell Palmer said it must be satisfactory to the house to find that on the colonial branch, on which the right honorable gentleman was entitled to speak with the greatest authority, the treaty of Washington was entirely approved by him. He was indebted to the right honorable gentleman for having (with the assistance of government) brought this subject forward, because he felt that it would not become

the house to separate without devoting some time to a review of this matter. He took the deepest interest in it because he was a member, though a subordinate one, of the government, during whose tenure of office there arose many of the transactions out of which this treaty sprung, and also because he, in common with every British citizen, had a desire that the honor of this country in all public matters might be maintained; that, in all arrangements growing out of all disagreements between this and other countries, there should be taken due measures to obtain security for the future; and also, if it were possible, cordial good will should subsist between ourselves and that great country on the other side of the Atlantic which had sprung from us. [Hear, hear.] On our side that good will had subsisted without interruption, and the difficulty to many of them of forming a sober estimate of these transactions was increased by the wonder how it could be possible that our feeling toward the United States could be misunderstood by them.

There had not been a time at which we were not willing to have made great sacrifices in order to maintain cordial relations with the United States, but no sacrifices were worthy of a great nation or could tend to the maintenance of cordial relations which involved in any degree a sacrifice or compromise of public honor. [Hear, hear.] Nor would it have been consistent with wisdom to enter into any arrangements for the removal of present differences unless regard was had to the future, and there was a likelihood of their containing securities against future interruption. Regarding, in the first place, the considerations connected with our national honor, he did not regard that honor as compromised by what had been done, but, even taking the low ground of the honor of the government, of which he was a member during the American war, he could not agree that its honor or credit had been compromised, for had he thought it had been, he could not have expressed his acquiescence in the arrangements which had been made. He believed that that government did nothing during that critical period but what was honorable and upright. That which had been made one of the main subjects of criticism was, to his thinking, one of the most satisfactory points of the treaty; viz, that while consenting to certain rules for the future, and allowing them to be applied as rules of judgment with respect to the past, we had guarded ourselves against being supposed to admit that if it should appear to any arbitrator that, being tried by those rules, our conduct was at that time in any respect wanting, we had distinctly declined to admit that those rules were laid down as rules of international obligation between ourselves and the United States at the time of the transactions, so that even if an award on those principles could be made against us, it stood on record that we had not admitted anything derogatory to our honor as to our having been at that time under any such obligations as between nation and nation. He desired to place before the house his view of the transactions which had led on the part of this country to the arrangement in question. If the present moment was not favorable to a complete appreciation of our conduct, he did not doubt that history would do justice to it, for there never was, in his opinion, a more honest, fair, true, or consistent neutrality professed or observed by any nation than that which we observed during the American civil war. [Hear, hear.] It should be remembered that nations were represented by their governments, and in a free nation there would be various feelings and interests, and great freedom in the expression of opinion. Englishmen did not impute ill-will or wrong to the United States because there might appear in the newspapers or circulate in society language which seemed to be inconsistent with a kindly feeling, because they knew well how to distinguish between the nation and the freedom of individuals composing it, and they hoped the same judgment would be applied to them. Tried by this test, the course taken by the government was, from first to last, one of strict, honorable, and loyal neutrality. The first thing they did was to issue a proclamation of neutrality for the purpose of making it understood that we meant to submit to the exercise of belligerent rights on the part of the United States against those of our citizens who might be found guilty of running a blockade or of introducing contraband of war, and, at the same time, of warning our citizens that they would be subject to those penalties. So far from that being an unfriendly act, the moment the war actually broke out it was a duty that we owed, both to the Americans and ourselves, to issue such a proclamation. To say that we were not to recognize the civil war as a fact, and to make it known that we acknowledged the rights of war when they were asserted, was difficult for us to understand. [Hear, hear.] Yet, for a long time that was made the head and front of our offending, but it had now disappeared from the category of imputations. The next step of the government was to issue rules against the use of our ports and waters as places of hostile operations. We would not allow any ships to remain for more than a limited time in our ports, nor would we allow any pursuit or attack to be initiated in our waters, or prizes to be brought in, or supplies of coal or other articles to be obtained except within the narrow limits which international hospitality prescribed. The government thus prevented our ports from being used as a basis of hostile operations. The next question was whether we should recognize the blockade of the whole sea-board of the Union, there being a great difficulty in maintaining it and numerous questions having been raised as to its validity. Other

neutral powers on the Continent had been angry when we had established blockades in former years, and they were much dissatisfied with the decisions of our prize courts in enforcing them. Some of them refused to recognize the blockade of the American ports with its unavoidable infirmities, especially in the early part of the war, but England declined to adopt that course, and stated that she would, when a neutral, abide by those rules which she had laid down for others when she was a belligerent. That war lasted a considerable time, and both in this house and out of it, on the Continent of Europe as well as in this country, overtures and suggestions were made for the recognition by us of the South, which had established its own government. [Hear.] Those suggestions were steadily resisted by our government, and in every public act the government not only maintained an attitude of neutrality honorably and with integrity, but they did so in as friendly a spirit as was consistent with the nature of that neutrality toward both the branches of that great country which we were sorry to see at variance with each other, and whose reconciliation was the thing we most desired. Our law with regard to ships was founded on the precedent of the United States, and was an improvement thereupon, for one of the ablest of American writers (Mr. Beales,) who was not friendly toward us in controversy, admitted the great defects of their law in comparison with ours.

It should be remembered that during the progress of the war our government made overtures to the Government of the United States for a revision of the neutrality laws of both countries, and those overtures were received with courtesy, and even with an expression of satisfaction, but with the distinct statement on the part of the Government of the United States that they did not see how our law could be improved. Really, therefore, they did not call upon us to make an alteration of our law, because they thought their law, which was of inferior stringency, was sufficient, and when pressed by Spain, in 1818, to make their own law more stringent, they declined to do so. The law of the United States was inferior to ours in this cardinal point—that it coupled the arming of ships within the jurisdiction with the fitting out of them in such a manner that it would be hardly possible for them to stop an unarmed ship. The Alabama, for instance, would not have been an offender against the United States law according to any ordinary principles of construction, and certainly she could not have been stopped under the detaining clauses of the statute, because she went out unarmed and received her armament elsewhere. The United States, therefore, thought our law was sufficiently stringent, and they did not press us to alter it, although our government, if they had thought it insufficient, would have been anxious to change it—a thing it would not have been easy to do—and for the proposal to have been made in Parliament without being carried would not have improved the situation of affairs. Neutrality laws were evidence of what both countries admitted to be the measure and limit of their obligation, and it was not to be supposed that the United States, having made their original law in 1793 or 1794, and their present law in 1817, when the war between Spain and Portugal was going on, considered that any obligation rested upon them to go beyond that form of law. We did not conceive that anything in our foreign enlistment act rested upon international obligation; we conceived that it rested upon our own legislation, and that it was designed to enable ourselves the better to vindicate and enforce within our own jurisdiction our own neutrality; and there could be no doubt that the United States took the same view of the matter. We did not for a moment say that the United States had not a right to call upon us *bona fide* to put in force our own law for the preservation of our neutrality; we distinctly admitted they had that right; but we said they had it upon the footing of persons asking us to enforce our own laws, and not upon any footing prior to, paramount to, or superior to our own laws; that they must seek to have that law enforced as all other laws were enforced, according to our own system of jurisprudence, and that it must be applied in cases where evidence was forthcoming, where juries and judges would say—or where at least there was a fair probability they would say—it had been infringed. We could not suppose they would imagine it was their right to ask us to act arbitrarily, as if we were not a people governed by Parliament and by laws. In this state of things we recognized their right to call upon us *bona fide* to the best of our power, by every means which the law gave us, to stop proceedings of this kind, the fitting out of these ships. We undertook to do this by diplomatic negotiations which were made between our government and the United States; we at all times professed our determination to enforce our own law according to the construction put upon it by our own law officers; and the construction put upon it at that time, though undoubtedly very questionable, was that most favorable to the United States, which made the arming of ships within this jurisdiction not essential here as it seemed to be under the United States act, but which considered the fitting out of a ship for warlike purposes as sufficient to warrant interference. The rule that a vessel must be specially adapted, wholly or in part, for warlike uses within the jurisdiction was very much in controversy when it came into court in the *Alexandra* case, and two judges declared that the large and beneficial construction of the law on which we had always acted was right, two that it was wrong, and the judgment of the court, in point of

form, was with those who thought it wrong. Nevertheless, the government being advised that the larger and more favorable view was the right view, always acted upon it. He mentioned this because the rule which was now adopted, even though it might not coincide with the view some lawyers took, did coincide with the view the government took of the measure of our own obligations. We stopped altogether five ships, and it was a total mistake to suppose that in the case of the two rans there was any assumption of power beyond the law, because the government acted on evidence which they thought to be sufficient. In the cases of the Georgia and Shenandoah, nothing was done within this jurisdiction, and no information was given to the government. The Shenandoah was not even suspected by any one in this country, and it was not until she got into Portuguese waters that she received her armament. As to the Alabama, she was officered by Americans and was armed at the Azores, but here she was equipped as a ship destined for the merchant service. On the 23d of June, 1862, Mr. Adams gave Earl Russell information, unaccompanied with evidence, and the government made inquiries and could learn nothing. Without proof of the destination of the belligerent, there was no case which could be acted upon. Mr. Adams then obtained a considerable body of evidence, which he sent to Earl Russell, who submitted it to the law officers of the Crown on the Saturday evening, so that they did not get it until Monday morning; their opinion that it was sufficient was not received until Tuesday morning, and that morning the vessel went away. Of course the law officers of the Crown would attend to urgent business on Sundays, but in this case the papers were not sent to their offices until late on Saturday evening, and, in the ordinary course, Sunday intervened before they received them; but there was as much diligence as was ordinarily exercised in legal matters for the government, as well as for private persons, and there was sufficient to show that the government acted with good faith. As to what followed, when ships were in the hands of belligerents, we did exactly what the United States would have done under similar circumstances, and we did not allow the ships to enter any of our ports.

While the arbitration was pending it would not become him to enter into detail so much as he otherwise might have done as to the concurrence of the authorities of the United States themselves in the principles upon which hitherto we had acted. It could not be wondered that, if we thought it a matter of national honor to act when we were neutrals on the principles we evinced as belligerents, we should expect the United States when they were belligerents to act on the principles they avowed as neutrals; and had they done so this controversy would not have been so long kept alive. All their authorities on jurisprudence, notably Wheaton, had held that the fitting out of armed ships in neutral territory for a belligerent was lawful, and during the French revolutionary war no one thought of holding the United States responsible for captures on the high seas, not brought into their own ports, of privateers which the French had fitted out in the most remarkable manner in the ports of the United States, most openly, and in defiance of the legal sovereignty of the United States themselves. The idea of holding them responsible for the prizes brought into the ports of the United States was never advocated; and even as to them they declined to be responsible for their restitution, when they had been brought in before a particular day in 1793, on which notice was given to the French minister that he was not to be permitted to use the ports of the United States any longer. As to all brought in before, they declined responsibility, and our government did not press it; as to all after, they undertook to restore them; and in cases in which it was admitted proper diligence had not been used, it was afterward agreed by treaty to make compensation. Between 1815 and 1818 there was a controversy between Spain and the United States with respect to ships fitted out in the ports of the United States which had committed depredations on the ships of Spain during her wars with her colonies, and uniformly the United States maintained that they were not responsible for the captures made by those ships, that their obligation was to enforce their own law upon sufficient evidence, and that failing the production of it they were not responsible. The controversy closed in 1819 with a treaty which involved the cession of Florida, and by which all claims on both sides were waived without prejudice to the attitude the United States had assumed. A similar controversy between the United States and Portugal was carried on from 1816 to 1850, and over and over again the United States refused to refer any such claims to commissioners, saying that there was no responsibility for acts done beyond their jurisdiction, even by their own citizens, and although the ships had been armed in their own ports. Surely this country could not be considered as acting otherwise than in a spirit of *bona fide* neutrality when it uniformly professed to adhere to that measure of obligation which the United States had laid down for themselves. He maintained that Lords Russell and Clarendon were perfectly justified, in the first instance, in declining to go into arbitration; they were only doing the very thing which had been done by the United States in the controversy with Portugal as recently as 1850. The real truth of the matter was that this country did not like to be at variance with the United States. Whatever might be the measure of our obligation, whatever the legal view of it, this country most deeply regretted that ships had

escaped from our shores and committed depredations on the commerce of the United States, [hear,] and we preferred to waive a strict examination of the question on legal and international grounds in order to get a settlement of it which should bring security for the present and peace and good will for the future. Those were the feelings with which Lord Stanley negotiated the treaty with Mr. Reverdy Johnson; and when that step had been taken it became manifestly impossible to go back. While he did not wish to say a word against the treaty which Lord Stanley negotiated, which fairly expressed the sentiments and wishes of the country, he had no hesitation in saying that he greatly preferred the present proceeding. ["Order, order."]

It was now turned 10 minutes to 7 o'clock, when, by the standing orders, the debate could not proceed, and

Colonel Wilson Patten rose to suggest that, considering the importance of the subject and of the speech, and that it was so desirable to preserve the continuity of both, the debate should be resumed at 9 o'clock.

Mr. Baillie Cochrane had no objection to postpone the motion which stood first in his name if he were promised one hour on Tuesday at 2 o'clock.

Mr. Gladstone could not give the desired pledge, and

The Speaker made the order for resuming the debate the first after supply.

Mr. Gladstone moved that the house, at its rising, should adjourn to 12 o'clock on Saturday, which was agreed to, and it was stated that no supply would be taken, but that the bill relating to the judicial committee of the privy council would be considered.

The sitting was suspended at 7 o'clock.

The house re-assembled at 9 o'clock.

THE TREATY OF WASHINGTON.

On the order of the day for going into committee of supply, Mr. Eastwick, Mr. Baillie Cochrane, and Sir W. Lawson, who had notices on the paper which were entitled to precedence, yielded to an appeal of Mr. Cardwell and Mr. Gladstone, and allowed the debate, which had been interrupted at 10 minutes to 7 o'clock, to be resumed, on condition that an opportunity would be afforded next week for bringing on their respective motions.

Sir Roundell Palmer said that when the sitting was suspended he was endeavoring to express what he felt on the subject of the arrangements between Lord Stanley, then secretary for foreign affairs, and Mr. Reverdy Johnson for a general arbitration of the questions in dispute between the two countries. He confessed that Lord Russell, the illustrious man under whom he had the honor to serve, and on whom fell a great part of the responsibility for the affairs to which reference had been made, was, in his opinion, perfectly justified in declining to go to arbitration at all. That was a course exactly similar to that which had been taken by the United States when a similar question arose between the United States and Portugal. He did not, therefore, himself share in the prevalent feeling of satisfaction at the arrangement made by Lord Stanley and Mr. Reverdy Johnson. It appeared to him to be attended with such considerable risk of unsatisfactory results that, as far as he was concerned, he would have preferred that matters should remain in the position in which they stood under the previous administrations of Lord Russell and Lord Palmerston. His reasons were these: In the first place, he would never have been a willing party to any arbitration whatever of any point which seemed to him to involve the honor of this country or the good faith of the government. [Hear, hear.] There were matters fit for arbitration, but this was not one. Every country was answerable for its own honor, and no referee whatever ought to be called in to determine questions of that kind. That was equally true with regard to questions of good faith. Of course it was not the intention of Lord Stanley to refer any question of honor to arbitration. But in such a reference as that to which he and Mr. Reverdy Johnson agreed, it was manifest that if there had been an unfavorable award against this country, it would have been capable of being represented as affecting the honor and good faith of this country. [Hear.] All matters were left entirely at large; there was no question, from the proclamation downward, which had been in difference between the two countries which was not involved in that reference, and whatever award might have been made either party would have been at liberty to place its own construction upon it. Arbitration between nations was a very good thing, and certainly we, as a nation, were bound to take that view, seeing that at the time of the declaration of Paris we concurred in a proposition that it was desirable to refer to arbitration all international disputes which would admit that kind of solution. But such international references had their disadvantages as well as their advantages. It was extremely difficult to find an arbitrator or arbitrators of whose absolute, rigid, judicial impartiality there could be no reasonable degree of doubt. He did not at all decline to follow his right honorable friend opposite in some observations he had made as to the particular powers chosen as arbitrators in the present case. He was perfectly ready to admit that they were as trustworthy, honorable, and capable as

any arbitrators that could be chosen in the whole civilized world. [Hear, hear.] But of all such high arbitrators this must be said, that they could not enter without a certain degree of bias upon the consideration of certain great public questions. We and the United States were the two great maritime powers of the world; we could not possibly find as arbitrators any power like ourselves. In one respect that would tend to impartiality of decision, but in other respects there would be a risk of encountering a current of opinion different from that which has prevailed between the two countries parties to the arbitration, and possibly there might be an unconscious bias of political interest arising from the point of view which the powers called in to arbitrate might naturally regard similar questions. Bearing that in mind, he would never have been a willing party to making any reference whatever to a form of international arbitration which could possibly result in an award which might be regarded by the world at large, or by the other party, as affecting the honor and the good faith of this country. That appeared to him a great objection to an arbitration simply at large, such as that agreed upon by Lord Stanley and Mr. Reverdy Johnson. There was another consideration of less importance, which, however, deserved to be mentioned. The elements of the question then proposed to be referred to arbitration were not at all limited or defined. It would have been competent for the arbitrators to have awarded against us upon any of the numerous grounds vaguely involved in the whole matters in dispute. For instance, if they thought that we ought not to have issued any neutrality proclamation, and they were not bound to give their reasons for the award. He did not fear on that point, because his impression had always been that while we were really clear on the main points we were a thousand times more clear on that. [Hear, hear.]

But the matter would have been attended with this inconvenience, that whichever way the award was given, whether for us or against us, nobody would have known the principles upon which it was founded. Suppose the award were in our favor, what might have followed? How would that party in the United States which had been irritated themselves, and had constantly fomented irritation against Great Britain, have regarded an award unfavorable to them? They might have said: "The arbitrators have determined that what was done in Great Britain was right in international law. Very well; then it is not necessary to use due diligence to prevent ships of war from being fitted out and armed to operate against the commerce of a belligerent power, for we assert that Great Britain did not use due diligence." The result, therefore, might have been to exonerate us from responsibility and pecuniary liability, but at the same time to establish it as a rule among nations that whether they had neutrality laws, such as the United States, and we had or not, governments were not under any sort of obligation towards each other to use due diligence to prevent the fitting out and armament of ships of that description. Such a view as that would not have tended to satisfactory relations between the two countries, for if in the case of a war in which Great Britain was involved, those who had participated in the irritation against us wished to connive at ships like the *Alabama* being fitted out against our commerce, the award would not in the least have stood in the way of such a disposition; nay, it would rather have led to its more open indulgence. It seemed to him that this country, if it were to have its own will and its own way, would never go to war at all, feeling that war was a great crime and a great wickedness. [Hear, hear.] That being so, he did not look forward to frequent wars on the part of this country. But that very feeling was likely to involve us in the disagreeable alternative either of having to go to war or of submitting to such affronts and insults that our most honorable men and wisest statesmen would consider that war was the lesser evil. Suppose that in the background, then, that great country, the United States, which ought to be our friend, was in such a frame of mind as to be inclined to ally itself with our opponents, or not to be very active in enforcing the neutrality laws against its own citizens, what would be the result? We knew what it had been in the case of Spain and Portugal, to which he had already referred. Therefore a decision favorable to us might leave us in no respect better off with regard to security than we were before. By that mode of arbitration, it should be observed that no rule as to the future would be agreed upon between the two countries. Whatever was vague and disputable in international law before would remain so still. On the other hand, if the award were against us, it would have laid down no rules whatever, and the United States would have been quite entitled, if it suited their convenience, to stand on the letter of their laws and say in our case, as they did in that of Spain and Portugal before: "We shall put the laws in force whenever we have sufficient information and proof of the facts, but we are not obliged to make a better or stronger law than we have already." This country became irrevocably committed to the principle of arbitration on this subject, both by the action of Lord Stanley and the subsequent action of Lord Clarendon, members of two successive governments representing both the great parties in this country. He expressed no opinion whether the course they adopted was wise or unwise. But when that course was adopted it was totally impossible for the government to avoid repeating the offer of arbitration which they had made on the subject before. Mr. Fish said a removal of the differences which arose during the rebellion in America was essential

to the restoration of cordial and amicable relations between the two governments. It would have been mere mockery to deal with the fishery question and other things and to omit to include this when we were told we never could have a restoration of amicable relations unless this was included.

The first question was whether Her Majesty's government should have insisted on the renewal of the *Reverdy Johnson* treaty. Was it reasonably possible for them to do so? Could it be supposed that the United States would, without modification, agree to the very thing which they had rejected? He apprehended the house would agree with him that it was desirable that arrangements should be made to give the greatest possible amount of security for a good understanding for the future, to insure us against acts of retaliation in case we should be at war, and thereby prevent other countries from supposing that in case of war between us and them the United States would commit acts of retaliation on our commerce. If we had obtained that for the future we had got a very excellent thing, which we should not have got under the arrangement made by Lord Stanley with Mr. *Reverdy Johnson*. The manner in which these rules were worded had the appearance of a thing which in point of fact was impossible—namely, the creating for the future by an agreement between two nations of new rules of international law. We might make rules binding between the two nations which, in case the world adopted them, would no doubt become established rules of international law, but so long as they rested on a contract only between the two nations, they would be binding only on the two nations. He should have liked the phraseology of these rules if it had been different from what it was. But it should be remembered that to negotiate a treaty at Washington was a different thing from negotiating a treaty at London. With regard to forms of expression, the American commissioners had an advantage, because they were at home and could at once communicate with their government, whereas the British commissioners, owing to the delay which would occur in communicating by letter with Her Majesty's government, would not think it worth while to oppose the introduction of forms of expression insisted upon by the American commissioners. The first rule was that a "neutral government is bound to use due diligence to prevent the fitting out, arming, or equipping within its jurisdiction of any vessel which it has reasonable ground to believe is intended to cruise or to carry on war against a power with which it is at peace, and also to use like due diligence to prevent the departure from its jurisdiction of any vessel intended to cruise or carry on war as above, such vessel having been specially adapted, in whole or in part, within such jurisdiction, to warlike use." That appeared to him to be a very good rule. What was meant by "due diligence?" He supposed it was meant that a neutral should use all the means in its power. It had been objected that the latter part of the rule departed from the former because it did not repeat the words "has reasonable grounds to believe;" but that, he thought, was a very ill-grounded criticism. "Like due diligence" implied the words "has reasonable ground to believe" used in the former part of the rule, and there was no necessity to repeat those words. We, by our present foreign enlistment act, had ample powers to prevent the fitting out, &c., of such a vessel as was referred to in this rule, and the United States must pass a bill as stringent as that which we passed last session. He had no doubt they would. With regard to the second rule, he confessed when he first read it he was somewhat alarmed. He thought it was expressed with a degree of vagueness which might be dangerous, and which might be extended to things which he did not think it possible the commissioners could have meant. The second rule is this, that "a neutral government is bound not to permit or suffer either belligerent to make use of its ports or waters as the base of naval operations against the other, or for the purpose of the renewal or augmentation of military supplies or arms or the recruitment of men." On this point he had been fortunate enough to elicit from the right honorable gentleman at the head of the government, in reply to a question he put to him on the 13th of June last, a most satisfactory answer, to the effect that this second rule was understood by Her Majesty's government and by the British and American commissioners as applying solely to vessels cruising or carrying war against a belligerent, and not to the case of military supplies or arms exported for the use of a belligerent from neutral ports or waters in the ordinary course of commerce. The right honorable gentleman had proceeded further to state that the President of the United States himself understood the rule in that sense, and would be the first not only to admit and allow, but to contend for, that construction of it. In the face of such an assurance on the part of the great states which were parties to this treaty it would be unbecoming for him to criticise the vagueness of the language in which the rule was couched, and without doubt this construction of it would be clearly laid before those foreign powers who were to be asked to accede to it. The third rule, being a mere corollary of the other two, required no separate comment. As far as these rules applied to the future, therefore, we had gained the assurance of a good and useful understanding between the two nations, which would go far toward repaying us for any pecuniary loss which we might possibly sustain in consequence of the award being founded upon these rules, instead of upon the principles of international law which

were actually in existence at the time of the escape of the Alabama. The future observance of these rules to which foreign nations were to be asked to accede would tend to promote a good understanding between all the powers, and to preserve the peace of the world. In dealing with the question of the retrospective application of these rules to the matter in dispute he apprehended that it was to be expected that the United States would not have agreed to be bound by them in the future unless we had assented to their operation being made retrospective, and, therefore, in his judgment it was worth our while to run the risk of having to undergo a pecuniary sacrifice in order to insure their adhesion to these rules. The terms of the treaty gave us this further advantage, that they distinctly set forth that for the sake of securing a good understanding between the two countries we agreed to be bound by conditions that were not in existence at the time when the cause of dispute arose. But, after all, the United States had a right to call upon us to execute in good faith our municipal law, and there was not such a very great difference between our municipal law and the language of these rules. The language of the first rule only differed from that of the 7th section of our own foreign enlistment act, which was in force at the time, by introducing the words to the effect that vessels which come within the ban were those which had been specially adapted in neutral ports in whole or in part to warlike uses. It was perfectly true that Lord Chief Baron Pollock and Baron Bramwell, as well as other great legal authorities, had thought that these words did not convey the true meaning of our foreign enlistment act, which, in their opinion, was intended to apply only to those vessels which should be armed completely and which left our waters in a condition to commence hostilities. But this had never been the opinion of the government, who, following the view taken by Barons Channell and Pigott, thought that the act would apply in cases in which vessels might not be completely armed and equipped, but merely adapted for war. Therefore, the application of this rule retrospectively was not so violent a change in our obligations as might have been supposed at first sight.

The other rule, as interpreted by the right honorable gentleman at the head of Her Majesty's government and by the minister of the United States, corresponded in like manner with the 8th section of our foreign enlistment act. It dealt with the renewal or augmentation of warlike equipments of belligerent vessels. The clause in the old foreign enlistment act applied only to ships actually in the war service of a belligerent power at the time when their equipment was augmented, whereas this rule extended also to ships intended to be used for the purpose of war service. Indeed, he maintained that these rules corresponded with each other, and did not go beyond the obligation we imposed on ourselves by our municipal law. Looking at all the circumstances, he was well content to acquiesce in and accept the recent arrangement with all its imperfections. [Hear.] He did not propose to go into all those matters which his right honorable friend opposite had touched upon with much more authority in regard to the colonial aspect of the question, but he might remark that he agreed with his right honorable friend that it was a blemish that the demands of Canada against the United States for the damage done by Fenian raiders should not have been included in the treaty. [Hear.] He was the more anxious to say this because the demands of the United States against Canada in reference to the landing of certain confederates at St. Albans were not only complied with, but anticipated by the spontaneous action of the Canadian legislature, which at once voted the money necessary to make good the losses. The United States might, he thought, feel on calm consideration that the principle of the reference we agreed to make applied at least as forcibly to the Fenian raids. Nevertheless, if from the arrangement which had been entered into permanent peace and good will were brought about between two great countries, he was willing to pay a greater price for such a result than we should have to pay under this treaty. [Hear, hear.]

Sir S. Northcote felt it was impossible for him to add anything to the arguments advanced by his honorable and learned friend the member for Richmond in favor of the general principle and provisions of the treaty, and with regard to other questions raised by his right honorable friend, (Sir C. Adderly,) it might appear more proper that he should leave it to Her Majesty's government to answer questions and dispose of objections which came rather within their cognizance than within the cognizance of an individual member of the late high commission. Still, there were two considerations which induced him to trespass for a short time on the attention of the house. First of all, he desired to express a hope that his right honorable friend would not press the motion, because he could say, from his own experience in the conduct of the negotiations, that although there existed a not inconsiderable amount of correspondence between Her Majesty's government and the commissioners, it would not in his opinion be advantageous to any one that that correspondence should be given to the world. It was thought desirable on all accounts that the negotiations should be conducted with that freedom which was only possible among those who knew that their communications with one another would be private. The questions the commissioners had to deal with were of the most delicate character. They affected the good rela-

tions between two great powers, and had given rise to much misunderstanding in times past. In order to settle them permanently, and bring about the establishment for a long time to come of thoroughly amicable relations between the two countries, it was desirable that the commissioners should communicate among themselves in the freest and most unreserved manner, and that they should embody their conclusions in the form of documents which really represented the substance of all that passed, but which abstained from raising questions of an irritating character. In order to maintain a thorough good feeling between the two countries it was better, he felt convinced, that the matter should remain as at present, and that the public of England and America should see the result at which the commissioners had arrived without going into all the questions raised and discussed in the course of the negotiations.

It had been remarked in discussions out of doors and in another place that, according to the correspondence and protocols laid on the table, the British commissioners appeared to have done nothing but assent to whatever was proposed by the American commissioners. This, however, was not at all the case. Long and animated discussions occurred on every point that was raised. Indeed, it often happened that days elapsed before an understanding was arrived at, and it would surely be most unwise and unnecessary to renew the battles which had been fought in the State Department at Washington. [Hear, hear.] All that was necessary to be known was the general course of the negotiations and the arguments which were finally adopted. The government, he believed, were prepared to give explanations on any point which might be raised, but he thought it undesirable to lay upon the table of the house correspondence of a confidential character. He seized this opportunity of saying, on his own part and on the part of the other commissioners who were not officially connected with the government, that there was substantially no difference of opinion between them on any of the important points of the negotiations, and, therefore, it was not to prevent its being known, that they were overruled in any manner by Her Majesty's government, that he thought the production of the correspondence inexpedient. Undoubtedly the position of a commissioner like himself who was not officially connected with Her Majesty's government was one of some delicacy. Having undertaken the office, it would have been exceedingly difficult and improper for him to set up private and individual opinions, except in matters of extreme importance and urgency, in the way of thwarting the arrangement that had to be made; and therefore it might be assumed that, the responsibility lying on the government, the commissioners were not all in accord as to the arrangement that was effected. Speaking, however, for himself, although he did not mean to say there might not have been points on which there was a slight difference of opinion, he must state that he never found himself in a position of that kind. He cordially accepted and heartily rejoiced in the arrangement in which he had taken a part. [Hear, hear.] If he ventured to refer to the saying that this was a treaty of which every one was glad but no one proud, he only did so for the purpose of saying that he was, at all events, the exception which proved the rule. He would go further, and say that he hardly understood the frame of mind of the persons who made use of that expression, for if it meant that the treaty was one we ought to be ashamed of no person ought to be glad that it was concluded. If the treaty contained anything derogatory to our national honor we ought not to be glad but extremely sorry that it had been entered into. He believed, however, that in its main outlines the treaty was one which the national honor, in the true sense of the term, not only justified but demanded. [Hear.] It must not be supposed that he arrogated to the commission any of the credit which more properly belonged to Her Majesty's government, who were responsible for the arrangements. [Hear.] His right honorable friend had complained that a limit of time had been introduced with regard to the claims of British subjects, whereas there was no limit of time with regard to the Alabama claims. Now, it was perfectly true that the claims of British subjects were limited to certain dates, which were intended to correspond with the period of the American civil war; but with regard to the claims arising out of the acts of the Alabama and other vessels of the same class, there was no necessity whatever for introducing any limit of time, because by mentioning particular vessels the class of claims was sufficiently defined. [Hear, hear.] If the treaty had spoken of the claims of British subjects generally, many claims of a miscellaneous character might have been sent in which there was no object in including in the arbitration. The claims arising out of the acts of the Alabama and other vessels were most clearly defined in the treaty. The honorable member for Richmond had remarked that the previous conventions left many points vague and introduced a number of claims which we could never have admitted. They were left so vague, indeed, that it would have been possible under those claims to have raised a number of questions which this country was not willing to submit to arbitration. They might have raised questions with regard to what they called England's premature recognition of belligerency, and the consequential damages arising from the prolongation of the war, and with regard also to other questions which this country could not have admitted. Instead of this being the case, however, the treaty, as actually concluded, narrowed the questions at issue

very closely by confining the reference solely to losses growing out of the acts of particular vessels, and so shutting out a large class of claims upon which the Americans had heretofore insisted. He contended, therefore, that the high joint commission had upon this point worked substantial advantage rather than injury to this country. His right honorable friend had made it a ground of complaint that the commission gave precedence to the Alabama claims over the question of the Canadian fisheries; but this complaint was based upon a misconception of the facts of the case. It was true that the commission grew out of a proposal to refer the question of the fisheries to a commission, but as a fact all the questions then at issue between the two countries were included in the reference, and a reference to the protocols would show that the fisheries question was first dealt with, and the general principle on which it was settled was decided upon. [Hear, hear.] The question of the manner and time in and at which the negotiations were commenced was one on which it was more proper that the government should speak than himself, but he might say he was perfectly satisfied, from what he heard while in America, that Her Majesty's government did wisely in taking the opportunity that offered of commencing the negotiations which had resulted in the treaty now under discussion. Her Majesty's government could not have honorably withdrawn from the original offer to refer to a commission the question of how the matters in dispute could best be settled. The Americans naturally felt that to accept the limits of the reference originally proposed by England would have left unsettled several questions which they desired to have set at rest, for the sake not of their own country merely, but in the interests of peace all over the world. [Hear, hear.] This view was, in his opinion, sound at bottom, though it had been stated, from time to time, in language calculated to irritate and offend certain classes of people in this country. It would not have been satisfactory to patch up this particular quarrel on a basis unlikely to afford a permanent settlement, and he therefore regarded the treaty which had resulted from lengthened negotiations as one with which all parties concerned ought to feel satisfied. The treaty not only opened the door for the settlement of a difficult and disagreeable question, but laid the foundation of important principles of international law which would hereafter prove of benefit not to England only but to the whole world. [Hear, hear.] Without doubt the consciousness that if England became engaged in a war her commerce would or would not be seriously injured by predatory incursions on the part of other states, and especially of America, would weaken her position in the eyes of the world and render her less able to speak with authority in the councils of nations. [Mr. C. Bentinck.—"No, no."]

If his honorable friend said that it was of no importance for England, when speaking in the councils of Europe to be able to point to America as being on friendly terms, there could be no argument between them. [Hear, hear.] It might be that England would be perfectly able to defend her commerce, but her position would be much more strong if she was on friendly terms with the United States, and no other nation could expect or hope to construct and arm in America vessels of the Alabama class to be used against English commerce on the high seas. [Hear, hear.] Another and very strong reason why there ought to be perfect friendliness between England and America was that this country desires to develop her great colonial empire. [Hear, hear.] No part of the British Empire was more strongly interested in the maintenance of friendly relations between England and America than was the Dominion of Canada, which would derive more advantages from the conclusion of the treaty than any other part of the Queen's dominions. At the present moment Canada was organizing and spreading herself over an enormous and sparsely-populated area, a process which required, above everything else, confidence, peace, and time. Canada lay on the frontiers of a country which, however well-disposed toward England, had a restless and energetic people, but he did not think any American statesman believed otherwise than that it was the interest of his country for Canada to flourish, and that an attempt at annexation would result in no good to America. If jealousy and bad feeling arose between England and the United States, Canada would be the first portion of this empire to feel it. England might, perhaps, in such a case, be able to defy the power of America to injure her dominions at home, but the trade, commerce, navigation, and credit of Canada would suffer at once, and therefore it was in the interest of peace between the two nations that the uncomfortable feeling which had unhappily existed should be terminated. Now, he would ask, how were the interests of Canada affected by the concessions made with respect to the fisheries? The fact that the British Empire was made capable of admitting the United States fishermen to these fisheries in itself proved that Canada was rightly in possession of them. And in return for these concessions Canada gained what she greatly wanted, a market for her fish. [Hear, hear.] When, therefore, it was said that Canada complained of the provisions relating to this matter, he believed that these complaints did not come from the fishing provinces, [hear:] and to show that this question was regarded very differently in America, he might mention the circumstance that a petition presented by the fishermen of Gloucester, in Massachusetts, complained that those portions of the treaty were all favorable to the Canadian fishermen, and unfavorable to the fishermen of the United States. General

Btler, too, who certainly did not usually mince matters, had denounced this bargain as one that was bad for the United States. Therefore, what had happened was simply what happened in most bargains, both sides wanted more than they could get, and consequently declared that they had the worst of it. [Cheers.] But it was said, "What you have really failed to do is this, you have given away our fisheries, and have failed to get for us what we value far more than money, the reciprocity treaty?" But free trade was a point in which both Canada and America were far behind ourselves. They found that the renewal of the reciprocity treaty as it stood was a point which would not be conceded. Were they then, because they could not obtain this renewal, to sacrifice an arrangement which was clearly to the interest of all concerned? One thing, too, was certain, that they were more likely to obtain for Canada a reduction of duties levied upon articles admitted into the United States markets by allowing things to work for themselves than by insisting upon the renewal of the reciprocity treaty, because the Americans would naturally have argued, "If England and Canada are so exceedingly anxious to get this treaty, and if they are ready to make us concessions of a kind which we admit to be valuable for the sake of getting it, there must be something very good to them in this bargain, and if good to them it must be bad for us." He believed, however, that in course of time, and as these great states developed and obtained more power in the councils of the nation, they would carry the doctrine of free trade for their own benefit, and the benefits which would result from free trade would a few years hence be obtained for Canada without her being called upon to give any compensation at all in return. [Hear, hear.]

He felt perfectly convinced that they were acting directly in the interests of Canada herself in not pressing this question prematurely, and in directing the attention of Canada to that which was really of primary importance to her—namely, the consolidation of her dominion, the maintenance of peace with her neighbor, and the completion of her great lines of communication by river, by canal, and by railway. [Hear, hear.] His honorable and learned friend had commented upon a certain amount of ambiguity

appeared to exist in the wording of the second rule, and in these arrangements there was, no doubt, some confusion occasionally, owing to the difficulty of telegraphic communication. But the question whether this rule was open to the interpretation put upon it by his honorable and learned friend was raised in America before the treaty was confirmed by the Senate. The matter was fully discussed and considered, and it was concluded that the intention of the rule was clearly to limit it to the case of naval operations. But, although the intention was clear in the arrangement effected between this country and the United States, if they were to invite other nations to accede to those rules, it would, of course, be of importance that no room for doubt should be left as to the meaning of the rule, and he believed he was correct in saying that negotiations had already been opened by Her Majesty's government with the United States which would effectually secure this object. He was perfectly convinced that the spirit in which this treaty had been offered and negotiated by England, and had been accepted and negotiated by America, was one of the utmost friendliness and cordiality, and that throughout America there was but one feeling on the general question involved in this treaty, and that was a feeling of satisfaction that a cause of difference which might, under other circumstances, have developed into something unpleasant, and even threatening, had been put an end to. [Cheers.] They heard, from time to time, incautious language used here with regard to that great nation, and, undoubtedly, in America extraordinary language was occasionally employed in the public journals and elsewhere with regard to England, but he altogether denied the statement that no cry was so popular in America as a cry against England. [Hear, hear.] What the Americans desired was that we should treat them not as they had been somewhat sarcastically termed as spoilt children, but on the same footing as other great nations, like France and Germany, [cheers,] and the peculiar susceptibility which the Americans displayed at anything which they regarded as contumelious or disparaging in the attitude of England towards that country as contradistinguished from the feeling with which they regarded a similar attitude on the part of other nations, was in itself a proof that they regarded us with exceptional affection and not with exceptional hostility. [Cheers.] There never was a time when it was more important for the maintenance of the great position of England in the councils of Europe and of the world, and for the development of the great colonial empire of England, to the importance of the consolidation of which some were, perhaps, not sufficiently alive, that we should maintain a thoroughly good understanding between all the branches of the Anglo-Saxon race. There never was a moment when we had a greater opportunity, and at which a greater responsibility rested upon us than this moment, and he firmly believed that the treaty of Washington, although it might be open to captious observations, and might possibly contain some real defects, was, as a whole, a great step in the promotion and toward the attainment of this desirable end. [Cheers.]

Mr. Gladstone, mentioning the period of the session as an apology for following the right honorable gentleman opposite, said he was desirous of making, without further delay, such observations as the occasion seemed to call for on his part, and he was glad

they would be of an agreeable character. His right honorable friend the member for Staffordshire had been the critic of the Washington treaty, and, subject to some exceptions, even his judgment upon it had not been very unfavorable; and he gave a very emphatic and weighty opinion that Canada in particular had reason to congratulate herself on the result of the negotiations. After the powerful and masterly argument of the honorable and learned member for Richmond, it was unnecessary for him to enter into the question at large, and, carefully avoiding such an attempt, he wished to say, with respect to the period of the American war, how extremely just the remarks of his honorable and learned friend had been. We lived in times when the duties of neutrals were gradually becoming more and more delicate and difficult; of all neutral countries our position was most delicate and difficult, from the extent and complications of our foreign relations, which formed so large a proportion of our national activity; and we knew from anxious and painful experience in the past, as we must anticipate for the future, that whatever uprightness of intention we might have, and however assiduously we might guard ourselves, it would not be possible for us to escape being suspected when causes of conflict occurred. In the case of the war between France and Germany, nobody could suppose that there was any bias on our part toward one side or the other, and yet we failed to give that satisfaction which we honestly endeavored and desired to give. He did not wish to imply that in the case either of those countries or that of America he complained of complaints which were the natural results of excitement on the part of men engaged in desperate conflict, and of the delicate nature of the questions with which neutrals had to deal, and he believed that uprightness of intention and due and reasonable care would secure avoidance of quarrel and ultimately in time of peace a general acknowledgment of our impartiality. There were many circumstances which would account for the sensitiveness of the United States, and on the part of the British government there were many plain, palpable, and undeniable facts which would convince any impartial man not only of our desire to maintain neutrality, but of our desire to make extraordinary efforts with that object. Some of these circumstances had been referred to by the honorable and learned member for Richmond, and others, from their nature, it would be hardly generous or fair to refer to. There were, however, one or two which had never been fully noticed in this country, and which it was only fair to Lord Russell and to the government of that day, and to Great Britain as a nation, to bear in mind. One had relation to a matter happily settled in the negotiations in which the right honorable gentleman opposite had borne so distinguished a part. It would be remembered that in 1860 we offered to settle the San Juan difficulty by arbitration, but no answer was ever returned to our proposal. During the civil war in America, had there been any ungenerous disposition on our part, we had a favorable opportunity, and he had almost said a fair one, for it would have been a natural exercise of an undoubted right of pressing for an answer to our proposal, and how difficult would have been the position of the American Government if it had been disposed to refuse. Although there was no other mode in which the question could be settled, our proposal was allowed to stand over from the autumn of 1860, and until after the conclusion of the civil war. Was it possible to conceive a more emphatic instance of a fair and liberal disposition on the part of the government of this country? Another instance which it was worth mentioning was connected with the flotilla which was built in this country for the government of China. That flotilla was intended to be manned by British officers and crews, and it was so manned; it was found difficult to arrange the relations between the British naval force and the official persons of the government of China; the government of China determined, as they were perfectly entitled to do, to break up that flotilla; and although we had no responsibility for that flotilla, and the vessels were of little value to the British navy, for fear the slightest whisper should go forth, or the slightest suspicion should arise that the vessels, when cast upon the market of the world, had been so cast upon it with a view to their purchase by the confederates, to be used against the United States, the government of this country at once determined to be the purchasers of those vessels. He affirmed that the history of nations offered no more remarkable instance of a disposition to give the largest interpretation to the obligations of neutrality; and if the fortunes of that war had been different, if the confederates had established their independence, and if they had called us to account, although our answer might have been good, we should not have confronted them with the same conscientiousness that we could now confront the Government of the United States. When the present government came into office, they committed our foreign relations to the charge of Lord Clarendon, a statesman of great ability, long experience, singular cordiality, and charming manners. Our relations with the United States was the first question to which he addressed himself; and, notwithstanding his contrast of the arbitration then proposed with that now agreed upon which had been made by the honorable and learned member for Richmond, the house would feel that Lord Clarendon judged wisely in taking up the labors of Lord Derby. The wish of Lord Clarendon and of his government was frustrated by the refusal of the American Senate—a refusal which we all much lamented at the time, and on which comments

might be made; but, however disposed we might be to be critical with respect to the refusal of the Senate and the nature of the representations laid before it, we might dismiss them from our minds in face of the treaty we had to consider. Although it was important in the interests of Canada that there should be a settlement of the fisheries question, it was still more important to the interests of the United States; but, without determining that it might be said of nations as of individuals that, when two had a difference, whichever had the greatest interest in settling it, that nation deserved praise which was most ready to promote a settlement. With respect to the Alabama claims, after what had happened, it was impossible for us to undertake the initiative; but having, as we had, these other matters open and requiring settlement, it was a great advantage that by pressing negotiation upon the fishery and the colonial questions we were able to relieve the American Government from what he believed they might themselves feel to be a false position. It was difficult for the Americans, while it was impossible for us, to propose negotiations upon the Alabama claims; but the proposal which it was open to us to make with respect to colonial questions at once removed the difficulty from the path of the American Government, and enabled them to take upon themselves a responsibility they would otherwise probably have been unwilling to assume, and to put all these controversies in the way toward a peaceful and satisfactory solution. His right honorable friend complained of the Alabama question having been thus treated in a certain sense as a secondary and collateral phase of a government question; and why not? It was the main question, and it formed a *sine qua non* in the minds of the Americans to the settlement of any of the other questions, and the desire of the Americans to settle the Alabama claims became an effective instrument in the hands of the British negotiators for obtaining on behalf of our colonies better terms than it would have been possible otherwise to obtain. Another point raised by his right honorable friend was one on which he admitted that he was not able to make so satisfactory an answer, he meant the Fenian claims. [Hear, hear.]

It would have been just and fair if those claims had been included in that great settlement, but it was not to be supposed that, because they were not so included, they had therefore ceased to exist. The Fenian claims remained in all their validity, and it was the duty of Her Majesty's government to see that the just interests of Canada growing out of those transactions in her relations with the United States were not disparaged. The reason why those claims were not included in the present settlement was simply because they were unable to include them, and because they did not think it right to abandon the whole of those extensive arrangements because they could not bring within their scope that single and comparatively limited point. There was one matter in respect to which his right honorable friend gave to his criticisms for once almost a declamatory tone. His right honorable friend said the reference now to be made to an arbitrator amounted to this—whether in 1861 England had fulfilled rules which only came into existence in 1871; and he added that, though magnanimity might be a good thing, yet they were changing the standard of right and passing almost from the sublime to the ridiculous. The answer to that was supplied by the speech of his honorable and learned friend, (Sir Roundell Palmer,) who had pointed out, with the utmost clearness and force, that there were two kinds of duties devolving on neutrals, viz, those arising from international and those arising from municipal law. He accepted what had fallen from his honorable and learned friend without deduction any more than without addition when he showed that the principles embodied in the first of the rules in the treaty of Washington were the very principles for which the executive of this country contended in our courts, and therefore it was not too much for the American Government to expect that the British should be prepared to act upon them in ultimately settling the controversy with regard to the Alabama question. No doubt a great concession had been made to America, but that concession had lain in this, that we had consented to go to arbitration as to our conduct in the administration of our own municipal law. That, undoubtedly, might be called stretching, somewhat, at least, the measure of strict necessity in respect to the fulfillment of international duties; but was there anything unreasonable in that principle? It was conducive to peace. He did not see that it involved disparagement to honor. As far as regarded the specifications contained in those rules, his honorable and learned friend had shown that they had added nothing to the claim which the American Government was already able to establish against them out of their own mouths, while they had obtained the basis of that most important understanding and covenant between the two countries for the regulation of the future which he trusted would ultimately harden and widen into an extension of international law for the benefit of the world. There had been in some minds a supposition that that arbitration was a phantasm conjured up by them to cover, with decent forms, a foregone conclusion. On the part of Her Majesty's government he begged most emphatically to disclaim any such idea or intention that arbitration would be a real, an honest, an energetic, though, no doubt, a friendly contention. All the resources, as he trusted, of argument, of knowledge, and of legal skill would be used for the purpose of establishing the upright conduct of England, and her fulfillment of her international duty; and the same, he doubted not

and he hoped, would be done on the part of America. The two countries would enter into it as a perfectly real, though amicable, contest, subject only to this condition—that, as they were bound by honor, they would, either of them, cheerfully accept the result, whatever it might be. He observed with the utmost satisfaction the spirit of dispassionate calm with which the whole matter had been considered in this country; there had been, on the one hand, a free development of those friendly and fraternal feelings which he trusted the English race in England would always entertain toward the English race in America. With extended and improved communications, we were by degrees attaining a condition which the old vulgar error about the feelings of America toward us might be dispelled. His right honorable friend (Sir S. Northcote) had given them an ample and, as he believed, a most just description of the sentiments entertained on the other side of the water; and coming as it did from his right honorable friend, he trusted it would have a great effect in assisting the beneficial process going forward in this country, which was rapidly becoming undeceived with regard to the existence of prejudice and antipathies, which on many occasions had, perhaps, been by us too lightly assumed to prevail among the great body of the American people through our having before our eyes peculiar phenomena in regard to certain portions of that people—phenomena painful to ourselves, but not less painful, he believed, to the bulk of intelligent Americans than to us, those intelligent Americans having some reason to feel, too, that the true root of the hostile feelings cherished in America, but not by America, toward England did not lie on their side of the water, but originated in the unhappy condition of a portion of the United Kingdom itself. Therefore the more that beneficial settlement was examined the more he believed the people of this country would arrive at the conclusion that without the slightest disparagement of honor, without any risk other than that which every man who engaged in a controversy ought to be disposed to face—viz, the risk of having it decided against him, if so it should be—that treaty had laid the foundation of future advantage in the administration and action of international law, and had likewise, by removing the last of all serious causes of dispute between those two great countries, done much toward the accomplishment of the great work of uniting them in the ties of affection where they were already bound by the ties of interest, of kindred, of race, and of language, thereby promoting that strong and lasting union between them which was in itself one of the main guarantees for the peace of the civilized world. [Cheers.]

Mr. Baillie Cochrane said that after the eloquent peroration which had just been addressed to the house, any one who rose to differ from the right honorable gentleman must incur the odium of not sufficiently estimating the value of the blessings of peace. But, although no one set a higher value upon them than he, he also valued the honor of the country, and thought that even such a treaty as this might be purchased too dearly. From the papers which had been furnished to the house he thought he could make out a strong case against the government, under whose instructions the commissioners had acted, and after reading those papers he was astonished either that commissioners should have been found to sign such a treaty, or that the House of Commons should approve it. Only three short papers had been presented to the house, and he regretted that the whole of the correspondence was not published, for it might have thrown some light on the extraordinary proceedings at Washington. He desired to know in what position this country stood with respect to the American Government, what we had gained and what we had sacrificed, and whether this country stood higher in the opinion of Europe in consequence of the negotiation of this treaty. It should be remembered that the demand for this high commission emanated from England, for in the first place Sir E. Thornton communicated with Mr. Fish, proposing simply to bring before a commission the question of the fisheries. To that Mr. Fish replied that the President desired the re-adjustment of other claims, without which the proposed high commission would fail to re-establish a lasting friendship between the two governments. The answer of the government was that all other claims, both of British subjects and citizens of the United States, arising out of acts committed during the civil war, should be referred to the commission. The right honorable gentleman said that the Alabama claims were more important than the fisheries; but how did he reconcile that with the fact that the fishery claims were the only ones brought before the American Government in the first instance? With reference to the protocols of the conference, the right honorable gentleman had said that the first question submitted to the conference was that of the fishery claims, but there was not a single word about that in the protocols. The first claim made by the Americans was for \$14,000,000 for the injury done to their commerce by the Alabama and other cruisers. Then the American commissioners desired that the British commissioners should place on record an expression of regret by Her Majesty's government for the depredations which had been committed by those vessels, and it was next stated:

“Although Great Britain had from the beginning disavowed any responsibility for the acts of the Alabama and the other vessels, she had already shown her willingness, for the sake of the maintenance of friendly relations with the United States, to adopt the principle of arbitration, providing that a fitting arbitrator could be found.”

The right honorable gentleman had said there was no reference to arbitration, but here was the offer. It was added :

"The American commissioners expressed their regret at the decision of the British commissioners, and said further that they could not consent to submit the question of the liability of Her Majesty's government to arbitration unless the principles which should govern the arbitrator in the consideration of the facts could be first agreed upon. The British commissioners replied that they had no authority to agree to a submission of these claims to an arbitrator with instructions as to the principles which should govern him in the consideration of them. They said that they should be willing to consider what principles should be adopted for observance in future."

That showed that the principles laid down were not to be retrospective. Then—

"The American commissioners replied that they were willing to consider what principles should be laid down for observance in similar cases in future, with the understanding that any principles that should be agreed upon should be held to be applicable to the facts in respect to the Alabama claims."

This was on the 8th of March, and the commissioners telegraphed for instructions, but it did not appear that anything more was done until the 3d of April. On that date—

"The British commissioners stated that they were instructed by Her Majesty's government to declare that Her Majesty's government could not assent to the proposed rules as a statement of principles of international law which were in force at the time when the Alabama claims arose, but that Her Majesty's government, in order to evince its desire of strengthening the friendly relations between the two countries, and of making satisfactory provision for the future, agreed that, in deciding the questions between the two countries arising out of those claims, the arbitrator should assume that Her Majesty's government had undertaken to act upon the principles set forth in the rules which the American commissioners had proposed."

On the 5th of April the American commissioners, referring to the hope which they had expressed on the 8th of March, inquired whether the British commissioners were prepared to place upon record an expression of regret by Her Majesty's government for the depredations committed by the vessels whose acts were now under discussion; and the British commissioners replied that they were authorized to express, in a friendly spirit, the regret felt by Her Majesty's government for the escape, under whatever circumstances, of the Alabama and other vessels from British ports, and for the depredations committed by those vessels. He considered that proceeding exceedingly humiliating to this country. Then the claims of British subjects arising out of the civil war were brought forward. The nature of those claims was perfectly clear; but, with something like an ironical insult to the British commissioners, the American commissioners said that they supposed they were right in their opinion that British laws prohibit British subjects from owning slaves; they therefore inquired whether any claim for slaves, or for alleged property or interest in slaves, can or will be presented by the British government, or in behalf of any British subject, under the treaty now being negotiated, if there be in the treaty no express words excluding such claims. Was it possible that they could suppose that the English proprietors in Canada were slave-owners? The British commissioners replied that by the law of England British subjects had long been prohibited from purchasing or dealing in slaves, not only within the dominions of the British crown, but in any foreign country, and that they had no hesitation in saying that no claim on behalf of any British subject for slaves or for any property or interest in slaves would be presented by the British government. It was plain that the American commissioners were only laughing at the British commissioners. At the conference of the 26th of April the British commissioners again brought before the joint high commission "the claims of the people of Canada for injuries suffered from the Fenian raids. They said that they were instructed to present these claims, and to state that they were regarded by Her Majesty's government as coming within the class of subjects indicated by Sir Edward Thornton in his letter of January 26, as subjects for the consideration of the joint high commission." The American commissioners replied that they could see no reason to vary the reply formerly given to this proposal, and the British high commissioners said that, under these circumstances, they would not urge further that the settlement of these claims should be included in the present treaty, and that they had the less difficulty in doing so as a portion of the claims were of a constructive and inferential character. But now the right honorable gentleman said that it was intended to bring forward these claims at a future period, though the British commissioners gave them up. He did not believe that anybody reading the papers could say that anything had been obtained from the American commissioners, and it appeared that everything was sacrificed on the part of the English. When all this was done it was represented that peaceful relations had been established with America, but peace might always be obtained with any country by accepting humiliating terms. In the case of the reciprocity treaty the British commissioners asked most humbly that it might be restored in principle, but the American commissioners declined altogether to negotiate on the basis of that treaty. He contended that in

these negotiations England had been subject to insult, an humble apology had been made to America, and Canada had been deeply injured. The right honorable gentleman said that Canada approved the Washington treaty, but he could see nothing in the papers to that effect, though it might be that, in consequence of the formation of the Dominion, the interests of the smaller states were sacrificed to those of the greater. He could not help feeling that the proceedings of the commission had only resulted in degradation to this country.

Mr. Anderson did not intend to enter upon the general merits of the treaty, or he could show that the first ground of complaint, that this country was too ready to acknowledge the Confederate States as belligerents, was a most unjust accusation, for the American Government themselves acknowledged the confederates as belligerents by the very act of blockading the southern ports. He wished to know why the 9th of April had been fixed upon as the date on which all British claims were to cease and determine. For his own part he must charge the commissioners with having failed to look sufficiently after the claims of British subjects. At the period which they assented to as being the end of the civil war no less than three confederate armies were in the field, and there was in the interval a great destruction of property, some of which, no doubt, belonged to the people of this country. There was, in his opinion, very little reason to suppose that the commissioners had not been imposed upon in the matter, and, indeed, in all cases of diplomatic negotiations with the United States we seemed to get the worst of the bargain.

Mr. Rathbone contended that it was of the greatest importance to this country, since the treaty of Paris, that the precedent of the Alabama should be canceled. It was besides, in his opinion, a proof of very bad citizenship that a man should, by fitting out such a vessel, imperil the peace of the country to which he belonged. The government, in his opinion, had earned the gratitude of the country by appointing the commission, and especially for having nominated as one of its members the right honorable baronet the member for North Devon.

Mr. Whalley commented on the fact that while the prime minister stated that the claims on account of the Fenian raids were still open, and that it was competent for the Canadian government or our own to press them, it appeared from the paper which the honorable member for the Isle of Wight had read that those claims had been given up by the commissioners. The Canadians fully understood that the Fenian raids were merely part of a system acted on by a power which had exercised and still continued to exercise great influence over states. That influence was at the root of the Alabama question. The whole object of the organization to which he referred was to foment and create war. The deliberate action of the Roman Catholic hierarchy was directed to produce dissension between America and this country, and one advantage from enforcing the claims on account of the Fenian raids would be that it would enable the Americans to emancipate themselves from the influence to which he had referred.

The motion for the production of the correspondence was then withdrawn.

THE TREATY OF WASHINGTON.

To the Editor of the Times—SIR: Permit me to request the insertion of the following rectification of certain points in your generally excellent report of my remarks in the debate on the Washington treaty, on which I should wish what I said to be quite accurately understood.

1. When Lord Palmerston's government, in 1863, made overtures to the Government of the United States for a revision of the neutrality laws of both countries, Mr. Adams stated (as the conversation was recorded at the time by Lord Russell) that the Government of the United States "did not see how their own law" (not, as it stands in the report, "our law") "on that subject could be improved." Mr. Adams himself reported his own words as being that his Government thought their own law "of very sufficient vigor."

2. I did not say that the Alabama was "equipped as a ship destined for the merchant service," but that she was built here to order, as an article of merchandise, and was not so equipped as to be capable of hostilities when she sailed from this country. I added the dates of the communications, upon that subject, between Mr. Adams and Lord Russell. A month elapsed between Mr. Adams's first communication on the 23d of June, 1862, and the transmission by him to the Foreign Office of any evidence in support of it, which was not done till the 22d of July, the board of customs being in the meantime unable to obtain any information on the cardinal point of the destination of the ship. Only one of the depositions sent by Mr. Adams on the 22d of July contained really material evidence on this point. Two more depositions were sent (with Mr. Collier's opinion of the 23d of July) in another letter from Mr. Adams, dated the 24th of July, which was not received at the Foreign Office till Saturday, the 26th. On Monday, the 28th, these papers were considered by the law officers of the Crown; on the same evening their report was made, and it was in Lord Russell's hands early on the 29th. Orders were then immediately sent to Liverpool to stop the vessel, but on the same day he escaped.

3. I did not say, with respect to the Alabama and other vessels, after they had passed into the hands of the belligerents, that "we did not allow these ships to enter any of our ports," which would have been contrary to well-known facts, nor did I speak of what the United States "would have done" under similar circumstances. The sentence on that subject should stand thus :

"As to what followed, when ships were in the hands of belligerents, we did exactly what the United States had done under similar circumstances. When any ship had once been commissioned as a public ship of war by a belligerent power over whom we had no jurisdiction, no proceedings or inquiry having previously been held within our jurisdiction as to that ship, we did not consider ourselves bound or entitled to refuse to allow her, like other ships bearing a similar commission, to enter any of our ports."

4. I did not refer to Wheaton, or other American authorities, as saying generally that "the fitting out of armed ships in neutral territory for a belligerent was lawful." I referred to the American jurists anterior to the civil war as generally laying down the doctrine that commercial dealings in ships of war, as in other contraband, were not prohibited by international as distinguished from municipal law; and I referred particularly to a passage in Wheaton's History of International Law, in which he treats it as a clear proposition that the sale and delivery of armed vessels by neutral citizens within neutral territory, to a belligerent power, is lawful *jure gentium*.

5. In speaking of the transactions of 1793-'94, I said that "the idea of holding the United States responsible for the prizes 'not' brought into their ports was never advocated; and, even as to those which were so brought in, they declined," &c.

I remain, sir, your obedient servant,

ROUNDELL PALMER.

30 PORTLAND PLACE, August 5.

No. 214.

Mr. Schenck to Mr. Fish.

No. 44.]

LEGATION OF THE UNITED STATES,
London, August 9, 1871. (Received August 21.)

SIR: I send you herewith, as of public interest and for further reference, the leading article on the debate on the treaty of Washington which took place, on the 4th instant, in the House of Commons, to wit, that of the Times of the 5th instant and those of the Standard, Morning Post, and Telegraph of the 7th instant.

I have, &c.,

ROBT. C. SCHENCK.

[From the London Times, Saturday, August 5, 1871.]

When the first debate was held in the House of Lords on the treaty of Washington we felt bound to agree with Lord Russell and Lord Salisbury, in opposition to Lord Granville and Lord Cairns, that it is desirable Parliament should have the opportunity of pronouncing an opinion on treaties while that opinion can still affect the result. We thought it would be a practice inconsistent with the spirit of the constitution that the ratification of a treaty should be delayed until Parliament had had a reasonable time to consider it, and refused if both houses of Parliament should condemn it. Some of the most important engagements ever entered into by the British government received no sanction from the country or its representatives, and have, in consequence, been periodically attacked with the argument, not only plausible, but just, that they were imposed on the nation by the indiscretion of a ministry. Every one admits that Parliament has a right to interfere in matters which so deeply concern the country, and every one must acknowledge that this interference ought to be something more than a futile railing against the government after the mischief is done. The Queen's plenipotentiaries receive their full powers to negotiate in her name, and to sign as if her own hand were set to the draught of the treaty; but this act of the executive government does not morally bind the nation, which may know nothing of it, though, in fact, it may entail upon us liabilities involving, perhaps, great political danger or immense sums of money, and lasting for generations. In the case of the treaty of Washington accident gave the appropriate opportunity. The treaty was prematurely

published, and was not ratified for more than a month afterward, so that the House of Lords were able to discuss the subject, and the Commons had ample opportunity of discussing it. Considering the novelty and importance of the principles established and the procedure instituted, it must be a comfort to those who negotiated the treaty that they will be able to point to the approval of one house and the silence of the other. There can, indeed, be no doubt that the House of Commons has given the consent that is implied in silence, and that the debate originated by Sir Charles Adderley yesterday in a weary house, at the end of the session, and when the subject has passed from the domain of practical politics, was a purposeless discussion which will possess little public interest.

We have already given our opinion on the treaty of Washington. We believe it to be a useful and honorable treaty, which will bring to a close a wearisome dispute, and make the relations of England and the United States more satisfactory than they have been for years. That it is a diplomatic triumph or even a record of great diplomatic skill no one will pretend. On one point the British commissioners made an error which at once provoked criticism. They agreed upon rules for the conduct of neutrals which are, no doubt, substantially just, but which had not been fully recognized by existing international law, or admitted by the British government during the war. Our commissioners thought it right to place on record, in the text of the treaty, that the Queen's government could not admit these rules to be principles of international law which were in force at the time when the claims arose, but agreed that the arbitrators should assume Her Majesty's government to have undertaken to act upon the principles set forth in these rules. Whatever opposition the treaty provoked in England was almost wholly due to this paragraph. However, the British public is not disposed to quarrel about phrases, and, as we observed when the treaty was first discussed, these principles of international law which are now solemnly established by the agreement of the two first maritime powers of the world are eminently favorable to England. When we think of the unsettled state of Europe and the passions which are raging under the pacified exterior of the Continent, when we find that nation after nation is being armed in mass, we cannot be sure that any rectitude of purpose or moderation of policy will preserve us from war. Should such a calamity fall upon us, it will be an inestimable advantage that the duties of neutrals have been interpreted in the strictest sense by the nation which has the greatest opportunity of injuring us, and which has hitherto throughout its history prided itself on its independence of action and its disregard of conventionalities.

This point, on which, no doubt it is permissible to criticise the treaty, was put by Sir Charles Adderley yesterday with a certain force. He said that the Americans had rejected the former treaty because the terms of the reference to arbitration then were "whether England had fulfilled her obligations at the time the Alabama sailed; and that is, whether she had acted according to the code then accepted among nations. At present, America accepted arbitration because the terms of the reference were changed. The reference now is whether England in 1861 had fulfilled her obligations in new and stricter terms drawn up in 1871. "The question," says Sir Charles Adderley, "is whether in a matter of mutual obligation new rules should be adopted different from those on which the obligation rested." For the reasons we have given we think that this concession ought not to condemn the treaty. The manner in which the negotiation was extended from the fisheries to the Alabama question was certainly singular, inasmuch as it made the greater matter subsidiary to the less, and gave a place among the commissioners on a concern of imperial interest to the Canadians, who had originally been chosen for their knowledge of a merely local question. But when the offer came from the American Government to resume negotiations on the Alabama claim it would have been the greatest of blunders to refuse on a point of form. We could not ourselves propose a new negotiation after Mr. Sumner and the Senate had so ceremoniously rejected a treaty the details of which had been mainly suggested by their own Government. But when the offer came from their side, and the Queen's ministers had the opportunity of bringing to a close the Alabama dispute and all the other outstanding disputes between the two countries, it would have been inexcusable to say that Canadian questions must stand alone. As a matter of fact, the Canadian commissioners were very able men, and rendered good service even beyond their own domain.

Sir Charles Adderley is an authority on colonial subjects, and it may be presumed to follow him into their intricacies, but he fails to convince us that the interests of the dominion suffered in the hands of the commissioners. With regard to the Fenian depredations, we have no wish to deny that compensation for them is morally due, and as much is admitted by Mr. Gladstone himself; but the American commissioners, from the first, declared they had no power to enter on the question. Our government was no doubt aware that, considering the state of parties in the Union and the strength of the Irish faction, the President could not venture to sanction such a concession, and the alternative was to waive the point or to break off the negotiations. Sir Stafford Northcote maintains that the Canadians had no reason to complain of the treaty, and

we are disposed to agree with him. The reciprocity treaty has not been re-established, but it must be remembered that the financial system of the United States is at this moment unsettled. The battle for protection has yet to be fought, but the champions of free trade are marshalling their forces and preparing for the attack. A reciprocity treaty on the old terms may be useless after a few years when the larger reciprocity of unrestricted commerce with all the world may become a principle of American finance. On Canadian as well as other subjects, a spirit of mutual concession was exhibited in the meetings at Washington, and we have the testimony of Sir Stafford Northcote that the British commissioners maintained the points which they thought of real importance. A notable proof of this is the absence from the treaty of all reference to the Queen's proclamation of neutrality, which the American Government had declared to be a wrongful recognition of the confederates as belligerents, involving England in indefinite liabilities for everything that afterward occurred.

The debate had the happy effect of drawing from Sir Roundell Palmer a speech of great ability on the conduct of England as a state during the American war. The British government has been so well and so successfully defended, and its honor and uprightness have been at length so fully admitted by the Americans themselves, that further argument may seem unnecessary. But for an effective summary of the chief points of our case, Sir Roundell Palmer's speech is invaluable. Not only did England do her own duty as a neutral, but by her example she prevented others from acting on opinions unfavorable to the then struggling federals. A part of his speech not less interesting is that in which he compares the arrangements made by Lord Stanley and Mr. Reverdy Johnson with the stipulations of the present treaty. According to Sir Roundell Palmer, Lord Stanley submitted to arbitration the honor and good faith of this country, an error so great that it would have been better to leave the dispute altogether unsettled. "All matters were left entirely at large; there was no question, from the proclamation downward, which was not involved in that reference, and, whatever award might have been made, either party would have been at liberty to place its own construction upon it." The present treaty, at any rate, allows the arbitrator to take away only our money, and not our good name. Mr. Gladstone defended the government against the not very serious attacks of the enemy, and Sir Charles Adderley withdrew his motion. It had been for the production of papers; but Sir Stafford Northcote justly observed the correspondence of the commissioners with the home government was confidential, and freedom in the conduct of negotiations is only possible among those who know that their communications with one another will be considered private. So the motion was withdrawn, and we trust no further fault will be found with the treaty of Washington.

[The Standard, Monday, August 7, 1871.]

It is not difficult to understand the readiness of a government never famed for parliamentary courtesy—and which has not scrupled during the present session to postpone week after week and month after month discussions likely to be "inconvenient" to Mr. Gladstone's interests, if not to the public service—to make or find time for the consideration of Sir C. Adderley's motion on the Washington treaty. The debate in the upper house had somewhat damaged the ministry; that in the Commons has been altogether favorable to them. In the first place, it has been postponed to a period of the session at which the attendance is scanty, and at which party spirit, however hot, is chilled by the fear of prolonging weary and useless sittings; and the time elapsed since the conclusion of the treaty has calmed the irritation felt by no small number of impartial Englishmen at its terms, and allowed the public to grow indifferent. In the next place, the presence of Sir S. Northcote as a member of the commission made anything like a party attack impossible, and secured the government against such a damaging comment from the leader of opposition as they would otherwise have apprehended. Again, the line taken by Sir C. Adderley was peculiarly advantageous to ministers. He approves that portion of the treaty upon which his authority and experience, as late under secretary for the colonies, would have given especial weight to his censure; and he so framed his motion as to make its withdrawal, on the appeal of Sir S. Northcote, a foregone conclusion. The house of commons will never insist on the production of confidential papers. Further, the judgment of the neutrals in the House of Lords was against the government; the only eminent man who holds a somewhat similar position in the Commons—Sir R. Palmer—delivered the best speech of the debate of Friday afternoon in favor of the treaty. Altogether, therefore, the ministry have gained by the discussion, and, as we think, undeservedly; for though we have always deprecated any condemnation of the treaty in Parliament, as likely to deprive us of the principal benefit for which we have made such large sacrifices and concessions, we cannot but think that the price we have paid for reconciliation with America was higher than it would have been if a manlier premier than Mr. Gladstone and a stronger minister for foreign affairs than Lord Granville had had the conduct of English policy.

Sir C. Adderley, as we have said, approves the settlement of the fisheries question as

highly advantageous to the Canadians. His argument rests upon the ground that the fisheries must necessarily be thrown open to the Americans, whereas our right and power to exclude them *in toto* are indubitable, and that the attempt to obtain the renewal of the reciprocity treaty in exchange was a double mistake: first, because it tended to make Americans fancy that we had something to gain by free trade at their expense; second, because free trade must soon be established by their own free will, without any price on our part; and it would be a pity to give up the fisheries except for a real equivalent. The only weak point of this latter argument appears to us to lie in the doubt whether Canada will get a real equivalent. The Americans deny *pro forma* that the colonial fisheries are worth more than their own; and, though the fact that they persist in haunting the colonial waters proves the contrary, we have some doubts as to the result of the commission which is to weigh the comparative value of the fisheries reciprocally thrown open, and order compensation accordingly. But the point of chief interest to every one, except, perhaps, the people of the maritime provinces of the dominion, is the Alabama arbitration. Sir C. Adderley put the objection to this part of the treaty with great force and clearness. "America," he says, "rejected a former offer of arbitration, because it left our conduct to be tried by the standard of international law in force at the time, upon which she knew we must be acquitted; she accepts arbitration now, because the treaty enacts that our conduct shall be judged by a new standard of international law devised for the first time in 1871." This is quite true. But we think that both Sir C. Adderley himself and all who followed him in the debate missed the real answer to it. America never would or could consent to an arbitration based on the international law of 1861, because really, though not, perhaps, nominally, her contention has all along been that that law had, under the changed circumstances of the age, become unjust and inadequate; a mere screen for violations of its substantial and primary principle, that neutral harbors and lands shall not be made the base of hostile operations. And as we have from the first practically admitted that on this point the Americans are right, that the rule was defective and must be amended, it does not seem altogether inconsistent on our part to allow ourselves to be judged by that which we admit ought to have been the law. Of course it would have been better had America renounced a claim for damages founded on such a concession. Had she said "by the law as it was my claim for actual redress must, of course, be limited; but you owe me moral reparation if, by the judgment of an impartial tribunal, you failed to act up to the law by which, as you allow, the conduct of nations ought to be regulated." But as she, confused by the manner in which her diplomatists have mixed up remonstrances based on their theory of our national duty, with appeals to our municipal law, has thought fit to embody her demand for reparation in the form of a suit for damages, it hardly becomes us to refuse the particular form of amends she has required. Again, it must be remembered that England did even at the time admit that the standard of public law now laid down was that to which we meant to conform. We did exert ourselves to the utmost to prevent vessels, unarmed, but supposed to be intended for war, from leaving our shores. What we agree to, then, is only to adopt as the standard of our liability what we made, in fact, the standard of our conduct. Sir R. Palmer showed, with all his usual eloquence and clearness, how much we did to enforce the rules of law by which we are to be judged. He shows that we stopped several vessels, under circumstances precisely similar to those of the Alabama; and that, save the Alabama, no vessel of whose intentions the American envoy had any suspicion escaped from our shores to break the law of nations as now interpreted; for the Florida entered a confederate port as a merchantman, and received her commission there before she sailed as a confederate man-of-war. Therefore, our case is this; that, according to the old code, we did more for the North than we ought to have done; that, according to the new code, we failed, by a few hours, to stop the first vessel that ever attempted this peculiar evasion of international right, but that we did stop every one of her successors of whose intention we had any sort of notice. Is it possible, then, for a candid arbitrator to pronounce that we did not show "due diligence"? If sentence be given against us, it must be on account solely of the subsequent admission of the Alabama to our colonial ports. And it is here that the real objection to the concession made by the commissioners appears to us to lie. As the law of nations then stood we could not refuse admission to our ports to a commissioned confederate vessel, and if we are condemned under the new rules for not refusing, we shall suffer wrong—wrong to which we shall have made ourselves voluntarily liable. Nevertheless, as Sir R. Palmer remarks, by consenting to be tried by a new standard of law, we gain this advantage, that a judgment given against us does not impugn our honor or our fidelity to our actual obligations, while in any event it is better that the judgment of the arbitrators should be pronounced on definite grounds, and should not, as under the Johnson-Clarendon convention, be open to various interpretations at the humor of the disputant parties or of others who might refer to it as a precedent. Had we been acquitted by the arbiters under that convention, America might, and would, in all probability, have interpreted the acquit-

tal as the legislation of such cruises as that of the Alabama; whereas now, be the verdict what it may, the law of nations is settled for the future, and settled in a sense favorable to English interests.

The exclusion from the treaty of the claims of Canada for reparation on account of the Fenian raids was condemned or regretted by every single speaker, including the prime minister himself. But we need not waste words upon it now. We are told that the Americans desire us to treat them as a grown-up nation and not as spoilt children. If so, they cannot but regret the conduct of their Government on this point. For, in the first place, it puts them flagrantly in the wrong before the whole civilized world; in the next, it is a point which England certainly would not have conceded to any other power, and which no other power would have asked; and finally, the grounds on which this claim was excluded from the arbitration are of a kind on which no true and honest American can reflect with satisfaction. General Grant refused to do us the very same common and simple justice that we were at the same moment doing to America, because the Irish immigrants were so powerful that no American party dared offend them. If Americans can endure to plead such an excuse we need not hesitate to accept it.

One word in conclusion. The debate in general was conducted with great dignity and good feeling; and in dealing with the reparation to be made for the deeds of the Alabama, liberals as well as conservatives remembered the precedents, English and American, for the part taken by her builders, the state of English feeling, the dubious condition of the law, the fact that Mr. Laird had been advised that he was within it, and above all, the obligation imposed upon him by the present policy of the country not to vindicate her conduct by arguments which must give bitter offense to Americans. There was but one exception to this rule. Mr. Rathbone, if not misrepresented, took occasion to make a severe and very ungenerous attack on a man who, for the reason above given, could not answer him. Mr. Rathbone is no hot-headed youth, no ignorant demagogue; he must have been perfectly aware that it behooved Mr. Laird to be silent; he must have been well aware that at least one of the ministers who listened to him from the treasury bench has been guilty of acts quite as questionable as the building of the Alabama, with which Mr. Rathbone's friends, if not himself, warmly sympathized; and he had no right to indulge his party feelings, as a liberal and a Northern sympathizer, at the expense of a foe whose hands were tied. We say his party feelings—for had he been actuated, as he doubtless believed, simply by a sense of public duty, he would have included sundry political friends of his own in his censures. We are bound to say that his attack was as unjust in substance as it was ungenerous in occasion, but even had Mr. Laird been as much to blame as Mr. Rathbone thinks, and had his offense been without the abundant precedents which excuse it, such language, at such a time, would have been wholly unjustifiable.

[From the Morning Post, Monday, August 7, 1871—Extract.]

Although hours are of value at this period of the session, it cannot be said that the greater portion of Friday afternoon and evening was misapplied in the discussion of the treaty of Washington. It is true, that treaty is now a thing of the past, and that even the adverse opinion of the House of Commons would not prevent the arrangement which we have made with the United States being religiously fulfilled; but at the same time it would scarcely have been decorous that a treaty establishing no inconsiderable change in international law, and entailing no small sacrifice on the part of this country, should have been concluded without eliciting some expression of opinion from the lower house of Parliament. Within a short time after the return to this country of the royal commissioners charged with the negotiation of the treaty, its subject-matter was discussed in the upper house, and by a decisive vote that chamber declared its approval of the manner in which our long-standing difference with the United States was put in train of being finally and satisfactorily arranged. It was then pointed out, as indeed was manifest to all who were acquainted with the history of the "Alabama claims," that the government of this country had considerably modified the attitude they held, and the language they employed, when Mr. Adams, the American minister at the Court of St. James, first demanded, on the part of the Government of Mr. Lincoln, satisfaction for the depredations committed by the Alabama and her sister cruisers. Sir Roundell Palmer was the chief law adviser of the Crown when the claims were first advanced, and in the recent debate in the House of Commons, he has no doubt reconciled much that was apparently inconsistent in our former treatment of this question, and has placed on its true footing the settlement finally assented to. It is unquestionable that the attitude assumed by the government of Lord Palmerston, when Earl Russell was at the Foreign Office, was one for which we had precedents in the conduct of the United States when pressed under precisely similar circumstances by Spain, and subsequently by Portugal, for compensation for depredations committed

on the shipping of those powers, by privateers which issued from American ports. It is also true that the construction put by the English government on the then foreign enlistment act, was identical with that put by American judges and jurists on the act of Congress on which our statute was modeled. But, as Sir Roundell Palmer observed, "the real truth of the matter is, that this country does not like to be at variance with the United States. Whatever might be the measure of our obligations, whatever the legal view of it, this country most deeply regretted what had occurred, and we preferred to waive a strict examination of the question on legal and international grounds, in order to get a settlement which should bring security for the present and peace and good will for the future."

Expediency, as distinguished from strict justice, was taken for a guide by the government of which Lord Stanley was the foreign minister; and although, when the Reverdy Johnson treaty was rejected by the United States Government, we might have fallen back on our strict rights, the liberal administration, which succeeded to office in this country, rightly followed in the footsteps of their predecessors, and addressed themselves to the task of settlement with the exclusive object of healing a serious difference and laying down rules to prevent its recurrence.

And it must be allowed that, as a set-off against the unquestionable sacrifice which we make by the treaty of Washington, we secure the inestimable gain of establishing—certainly between ourselves and the United States, and most probably universally, by the early adoption by other maritime powers—rules of international law whose observance will go far to diminish the not unfrequent risks of misunderstandings between neutrals and belligerents. The essential fault of the treaty which it had been the intention of Lord Stanley and Mr. Reverdy Johnson to conclude was that it simply provided for the settlement of the particular claims then advanced by the Government of the United States, without making any provision for the avoidance of similar misunderstandings in future; and those who entertain the opinion that the former treaty would have been preferable to that made at Washington will find some difficulty replying to the objections taken to it by Sir Roundell Palmer. If the decision of the arbitrators had been in our favor, the ill-feeling which had arisen in the United States would have remained unabated, and, in the event of our being engaged in war with European power, the United States, accepting the construction put upon our act, would not improbably have encouraged in their ports similar evasions of the principle of the foreign enlistment act to those of which they had fruitlessly complained. On the other hand, if the decision of the arbitrators had been against us, the United States might still have maintained their original construction of their obligations under the act of Congress, and treated any complaints advanced by us at a future time as they had treated those made on former occasions by the Spanish and Portuguese governments. In other words, the issue has now been dealt with on a broad, comprehensive basis, and with a view not merely to the satisfaction of an existing difference, but the protection of our future interests. The only consideration which could exist for a departure from the line taken by Earl Russell eight years ago in the dispatch in which, on the part of Her Majesty's government, he refused to entertain the claims advanced by the American Government, must rest on the creation of some guarantee that for the future the Government of the United States will undertake the same obligations they seek to exact upon us, and this guarantee is afforded by the treaty of Washington.

The main difficulty which has always stood in the way of reconciling desired changes in international law with the municipal law of particular states, has, in the present instance, been to a great extent overcome.

Although the sovereign may by treaty agree with the executive of another state that, as between the two powers, certain rules of international law shall obtain, that agreement must be entirely subsidiary to the municipal law. In this country the Crown, lords, and commons constitute the legislative power, and it would therefore be incompetent for the sovereign to impose on the country international obligations at variance or inconsistent with the known laws of the realm; and if she attempted to do so by treaty, they would be inoperative. In like manner, in the United States the legislative power rests with the President and Congress, and consequently the President and Senate, with whom the power of making treaties resides, could not override the general law by stipulations inconsistent with it.

Now, in our case, we, in the first instance, completely remodeled our foreign enlistment act, and then the government assented by the treaty of Washington to certain rules which, by the aid of the new statute, may be enforced by the tribunals of the country; but up to this time no change has been made by Congress in the American foreign enlistment act, and it is undoubtedly true that, if no change were made, the obligations entered into by the Executive of the United States by the recent treaty would be inoperative. In the event of our being at war, and cruisers being obtained by our enemies from American ports, under circumstances similar to those under which the Alabama quitted English waters, the American Government would be powerless to put a stop to the practice. Accordingly it will be necessary for Congress to pass

act similar to our own, in order to enable the Executive to observe in good faith the stipulations into which it has entered.

That such an act will be speedily passed we have a right to expect, and indeed we entertain no doubt that Congress will fulfill the engagement which has been impliedly contracted in its name; but until this course is taken, that security which we look for at the hands of the Americans will not be afforded, nor will the price of the sacrifice we have made be duly paid.

[From the Daily Telegraph, Monday, August 7, 1871.]

Those among our countrymen who are well acquainted with the United States are sometimes lost in wonder that Englishmen of cultivation and thoughtfulness should betray such ignorance and indifference, regarding all topics which affect our relations with the great republic, as we had to note in the debate of Friday last, on the Washington treaty. The "long session" of 1871 is already identified in the minds of English politicians with the abolition of purchase in the army, the introduction of vote by ballot, or the state visit to Ireland of the Prince of Wales and his brother and sister. If an intelligent man who has never left the shores of England were asked to name the public measures by which Mr. Gladstone is most likely to gain immortality, he would probably instance the disestablishment of the Irish church, the abolition of army purchase, or some other act of purely domestic legislation. None, however, who have studied history with advantage, can fail to be well aware that the measures which have most deeply affected the commonwealth of England have not unfrequently passed through Parliament without notice or comment. The biographer of that strange and brilliant being, Charles Townshend, tells us that never was there so languid a debate on so vital a topic as when, in 1765, George Grenville made the famous proposal to tax North America, by introducing to Parliament his fatal stamp act. No other debate of the last century is read to-day with such mournful interest as that in which Charles Townshend spoke of the Americans as "children planted by our care and nourished by our indulgence;" provoking from Colonel Barré the angry retort that they were "children planted not by your care, but by your oppression—they fled from your tyranny to a then uncultivated land." The politicians of all countries are too ready to imagine that everything which is close to their eyes, and is long and loudly debated, must necessarily be of gigantic magnitude. They resemble children who, gazing upward at night, find it impossible to believe that the moon is not the largest of all the heavenly bodies. But the man who extends his range of vision, and contrasts the position of Great Britain—reconciled, as she now is, to her transatlantic children—with the position in which she stood only six short months ago, will not be disposed to damn with faint praise the treaty of Washington, or to regard it as a measure of which everybody is glad and nobody proud. "That it is a diplomatic triumph," testily observes one of our contemporaries, "no one will pretend." Yet no treaty to which England has ever been a party, in her thousand years of history, was fraught with more advantages to mankind than the treaty of Washington. We do not claim, on behalf of Lord Ripon and his colleagues, that they out-finessed or out-manuevered their American *collaborateurs*. In 1871, happily, a "diplomatic triumph" means a very different thing from what the words implied when mendacious tricksters like Talleyrand or Pozzo di Borgo tried conclusions across a board of green cloth. But we emphatically assert that, long and distinguished as we hope the public career of Lord Ripon and Sir Stafford Northcote will be, no prouder words will be inscribed in their memorial than, "One of the framers of the treaty of Washington."

In order rightly to estimate the significance of that great instrument of reconciliation, let us briefly call to mind what were the probabilities of success before the high commissioners of Great Britain, when they landed at New York in the beginning of last March. We must not forget the annual message which the President of the United States communicated to Congress in December last. Although it excited little public attention at a moment when Paris was beleaguered by the Prussians, that document was undoubtedly one of the most pronounced state papers that ever issued from the head of a great nation. President Grant animadverted, in very outspoken terms, upon the "unneighborly and unfriendly" conduct of Canada in regard to the fishery dispute, and proceeded to speak, with an acerbity scarcely dignified, of the still unadjusted Alabama claims. "The time is probably not far distant," he continued, "when the European political connection with this continent will cease;" and he advised that the policy of the United States should be so shaped as to accord with that coveted end. Six months ago it was the scarcely concealed hope of every ordinary American politician that England would, in transatlantic phrase, "foot the balance" of the Alabama claims by withdrawing her flag from the North American continent. It was useless for Englishmen to affirm that they claim no feudal ownership over a reluctant province, but that the Union with the British Crown is maintained by the Canadians, the Nova Scotians, New Brunswickers, and British Columbians themselves. Despite the

ignorance which on both sides of the Atlantic prevailed as to the subjects in dispute and also despite, the minatory language employed in December by President Grant there were two men—Sir Edward Thornton and Mr. Secretary Fish—who deemed the moment propitious for an attempt at reconciliation. It would be unjust to deny that not a few Englishmen, well acquainted with the American sentiment, did not share the hopes of the British minister at Washington. In like manner most of the Washington politicians sneered at Mr. Fish for having brought the five British high commissioners across the Atlantic to no purpose. Mr. Sumner, for example, made no concealment of his conviction, during the whole of March and the first half of April, that the negotiations of the joint high commission would “resemble one of those rivers in Africa which have no mouth, but which, flowing away from the sea, are lost among infinite deserts of sand.” It would be absurd, therefore, to ignore the fact that Sir Edward Thornton ran some risk when he invited the home government to send British commissioners to Washington, and that Mr. Gladstone and Lord Granville ran a still greater risk when they lent a favorable ear to Sir Edward Thornton’s invitation. The characteristic courage in which Mr. Gladstone so far emulates his great master, Sir Robert Peel, was never more markedly displayed; nor has it failed to reap a rich reward. And although the treaty thus owes its origin to Sir Edward Thornton and to a Canadian statesman now resident in London—Sir John Rose—while Mr. Gladstone and Lord Granville deserve high praise for their courage in adopting the views of their transatlantic advisers, only the ignorant or the most prejudiced would assert that the treaty itself is “no diplomatic triumph.” The somewhat lengthened sojourn in Washington of four Englishmen so conciliatory, so intelligent, and honest as Lord Ripon, Sir Stafford Northcote, Professor Bernard, and Lord Tenterden, smoothed away every difficulty; and the happy result was a treaty which will write its name deeper on the page of international history than that of Utrecht or of Vienna.

For these reasons, the short debate in the House of Commons on Friday will not probably be read hereafter without surprise, as one of many which indicate the shortsightedness of statesmen. Out of the nine speakers who took part, three only appeared to have a just perception of the value of an international instrument which will probably convert the year 1871 into the great diplomatic date of the present century. Even Mr. Gladstone spoke as if on the defensive about a treaty which will not possibly be the most beneficial and best-remembered measure of his life. It is desirable that Englishmen who grumble over the concessions which Lord Ripon and his colleagues made “for the sake of peace,” should remember what, in the same interest, Mr. Fish, General Schenck, and the American commissioners gave up. For the sake of a comparatively trivial payment in money, they abandoned what to three-fifths of the American nation seemed the most precious of possessions—the treasured hope of revenge. Sir Charles Adderley began the discussion with a regret that England should have sued as a petitioner in a matter which was more important to the United States. Has he reflected upon the misapprehension which these words imply? To a nation so rich and powerful as the great republic, what could it signify whether less than £3,000,000 were added or not added to a debt which at the close of the war exceeded £500,000,000? President Grant could not have more thoroughly gratified a majority of his countrymen, when, on his accession to office in 1868, the war passions were still unallayed, than by paying the losses charged to the Alabama and her sister pirates, and including the amount in the national debt, with an intimation that he or his successors would, at the right moment, hold England responsible. In such a case, the very smallest war in which England was engaged would have meant also war with the United States. It may not be generally known, that during the English expedition against King Theodore, some American politicians urged that envoys should be sent to obtain letters of marque from the Abyssinian savage. But for his inaccessibility, and for the fact that he owned no ports, the sea might have been covered with Americo-Abyssinian Alabamas. Against the recurrence of such a danger, Lord Ripon, and Sir Stafford Northcote have guaranteed us. But those achievements are matters of detail. The grand result of the negotiations at Washington is, that English and American statesmen have joined, with the deliberate approval of the two powerful countries, in laying the basis for a system of arbitration which may hereafter save wars more gigantic and more wasteful than any we have yet witnessed; and that they have also initiated such a method of improving the relations between foreign states as may develop a genuine international law. Thus, whatever may be the opinion of cotemporaries in 1871, we believe that in 1971 the treaty of Washington will be regarded as England’s greatest diplomatic triumph during the nineteenth century.

No. 215.

Mr. Fish to General Schenck.

[Extract.]

No. 44.]

DEPARTMENT OF STATE,

Washington, August 11, 1871.

SIR: Shortly before Sir Edward Thornton sailed for Europe, he suggested the name of Count Corti, the Italian minister to this Government, as the commissioner under Article XII of the treaty of May 8, 1871, to be named by the President of the United States and Her Britannic Majesty conjointly. He stated that this suggestion was made on his own responsibility, without the instruction of his government. The President accepted the suggestion, and agreed to name Count Corti, on his part, if the British government proposed it. Sir Edward subsequently informed me that his government approved the nomination, and he went to Newport, where the Count is passing the summer, and on the eve of his sailing for England telegraphed to me that the Count consented to serve on the commission if his government would approve. I have had no other official communication on the subject, and as the time is advancing within which the joint appointment must be made, I have sent to Mr. Marsh the telegram of which a copy is inclosed. It was submitted to Mr. Pakenham before it was dispatched, and a copy of it was given to him.

Inclosed herewith is a copy of a telegram sent to you on the 9th instant.* The President has appointed Mr. Charles Francis Adams the arbitrator to be named by him under Article I of the treaty on the Tribunal of Arbitration to meet in Geneva, and you were aware before you left the United States that he had appointed Mr. J. C. Bancroft Davis, the Assistant Secretary of State, the agent on the part of the United States to represent this Government generally in all matters connected with the arbitration. These appointments have not yet been officially made public; that of Mr. Davis has been unofficially authorized to be announced. It is probable that both will be authoritatively made public very shortly.

If the British government will give you the name of the arbitrator appointed in their behalf, you will at once announce to them the appointment of Mr. Adams.

If they are not prepared, or not willing to name the arbitrator on their part, you will exercise your own judgment in communicating the appointment of the American arbitrator.

The appointment of Mr. Davis you may communicate at once. The President has also named Mr. Robert S. Hale, of New York, as the agent of this Government to attend the commissioners to be appointed under the Article XII of the treaty. This appointment you will communicate to Her Majesty's government.

I am, &c.,

HAMILTON FISH.

Mr. Fish to Mr. Marsh.

[Telegram.]

WASHINGTON, August 9, 1871.

MARSH, Minister, Rome:

Referring to article twelve of the treaty with Great Britain of 8th May, the President and Her Majesty the Queen of Great Britain have conjointly agreed to receive Count

* For inclosure see page 482.

Corti as the third commissioner, to be appointed under that article, if the Italian government consent to his serving. You will see your British colleague, and arrange with him for a contemporaneous request to the Italian government for its consent, and inform Department of answer by telegraph.

FISH, *Secretary*.

No. 216.

Mr. Moran to Mr. Fish.

No. 341.]

LEGATION OF THE UNITED STATES,
London, August 17, 1871. (Received August 31.)

SIR: I have the honor to send herewith, copy of a telegram to General Schenck from Mr. Davis, in regard to the appointment of the British arbitrator under the treaty of Washington, the original of which was received and answered by his excellency on the 13th instant. A copy of the answer is also inclosed.

I also send herewith a report from the Times of the 12th instant, of Lord Granville's announcement in the House of Lords on the 11th instant, of the appointment of the lord chief justice of England as arbitrator, and of Sir Roundell Palmer as counsel for Great Britain under the above-mentioned treaty.

I am, &c.,

BENJAMIN MORAX.

Mr. Davis to General Schenck.

[Telegram.]

WASHINGTON, August 12, 1871.

SCHENCK, *Minister, London* :

Has British arbitrator been named ?

DAVIS.

General Schenck to Mr. Davis.

[Telegram.]

LONDON, August 13, 1871.

DAVIS, *Acting Secretary* :

Alexander Cockburn, Lord Chief Justice, appointed Arbitrator. Sir Roundell Palmer, counsel.

SCHENCK.

[From the London Times, August 12, 1871.]

Parliamentary Intelligence—House of Lords, Friday, August 11.

The lord chancellor took his seat on the woolsack at 5 o'clock.

PETITIONS.

The earl of Shaftesbury presented petitions from Bridport and Framlingham for the repeal of the contagious diseases acts.

THE ALABAMA CLAIMS.

Lord Redesale asked whether the question as to the right of the United States to persevere in their demand for an indemnity on account of the Alabama claims since the reconciliation of the Southern with the Northern States would be distinctly raised before the arbitrators, inasmuch as the damage for which such indemnity is claimed was inflicted by the Southern States, who now joined in the application. He reminded their lordships that on his putting a question earlier in the session it was stated that the point had not been raised previously, and that it was too late to bring it before

the commissioners. He hoped it would now be taken up, for the acts of the Southern States having been condoned by the Northern States, it was contrary to every principle of justice that the former should claim compensation for the damages inflicted by themselves.

Earl Granville replied that it would be inconvenient to discuss the nature of the case to be laid before the arbitrators, but it would, doubtless, be satisfactory to the noble lord and to the house to know what steps had been taken in the matter. The drawing up of the case had been confided to the noble and learned lord on the woolsack, who would be assisted by Lord Tenterden and Professor Bernard, the two men in England most thoroughly acquainted with all the facts. He was happy to say also, that besides the advantages to be derived from the legal advisers of the government, Sir Roundell Palmer had consented to act as our counsel on the occasion. Sir Roundell had shown great public spirit in accepting this task, at a great personal sacrifice. He would also superintend every detail of the case. As to the particular point raised by the noble lord, the government would, of course, not omit to urge any point which they could fairly and honorably urge, while abstaining from putting forward any point which did not appear to them or their advisers founded in reason.

THE LORD CHIEF JUSTICE OF ENGLAND AND THE ALABAMA CLAIMS.

Earl Granville, before moving the adjournment of the house, desired to make a statement which he had no doubt their lordships would hear with pleasure. He was happy to state that he had just received a letter from the lord chief justice of England to the effect that that most learned judge (Sir Alexander Cockburn) had consented to act as arbitrator in the case of the Alabama claims. [Hear, hear.]

Their lordships adjourned at 25 minutes after 6 o'clock.

No. 217.

Mr. Moran to Mr. Fish.

No. 339.]

LEGATION OF THE UNITED STATES,
London, August 17, 1871. (Received August 31.)

SIR: On the 10th instant General Schenck received your telegram of the 9th, (a copy of which is herewith inclosed,) instructing him to inform Lord Granville by note that the President had named Judge James S. Frazer, of Indiana, as commissioner under the XIIth article of the treaty of Washington, and also authorizing him to see his Lordship and say that instructions had been telegraphed to Mr. Marsh to obtain the consent of the Italian government to Count Corti's acting as third commissioner under the treaty, and to request him, if he should see fit, to give instructions to the British minister in Italy to make a similar and contemporaneous request.

General Schenck at once wrote to Lord Granville, announcing the selection by the President of Judge Frazer, and his lordship replied on the 14th instant, expressing his thanks for the communication, and saying that Mr. Russell Gurney, recorder of London, had been appointed Her Majesty's commissioner under the same article of the treaty.

I have the honor to inclose copies of both these notes.

General Schenck did not succeed in obtaining an interview before leaving London with Lord Granville, in relation to the second instruction in your telegram of the 9th instant; but I saw his lordship at the Foreign Office at 3.40 p. m., on 15th instant, and brought the subject to his notice. He said that Sir A. Paget had been instructed to propose Count Corti; but that when he communicated this to Mr. Marsh, that gentleman had received no advices on the subject from Washington. Subsequently he obtained instructions, and Her Majesty's government have received information that the two ministers have already acted on

their similar instructions, and requested the consent of the Italian government to Count Corti acting as the third commissioner.

I telegraphed the substance of this reply to you yesterday afternoon, and now transmit herewith a copy of that message.

I am, &c.,

BENJAMIN MORAN.

Mr. Fish to General Schenck.

[Telegram.]

WASHINGTON, August 9.

Inform Lord Granville by note that the President has named Judge James S. Frazer, late of the supreme court of Indiana, as commissioner under article twelve of the treaty. You will also see him and say that instructions have been sent by telegraph to Minister Marsh, to request the consent of Italian government to Count Corti acting as the commissioner to be named conjointly by the two governments; and request him, if he sees fit, to give instructions to British minister in Italy to make a similar and contemporaneous request.

General Schenck to Earl Granville.

LEGATION OF THE UNITED STATES,
London, August 10, 1871.

MY LORD: I am instructed by the Secretary of State at Washington, through a telegraphic dispatch just received, to inform you that the President has named Judge James S. Frazer, late of the supreme court of the State of Indiana, as a commissioner under Article XII of the treaty of Washington.

I have, &c.,

ROBT C. SCHENCK.

Earl Granville to General Schenck.

FOREIGN OFFICE, August 14, 1871.

SIR: I have the honor to acknowledge the receipt of your note of the 10th instant, informing me of the appointment of Judge James S. Frazer as a commissioner under Article XII of the treaty of Washington, and I beg leave to thank you for this communication.

I have at the same time the honor to inform you that Mr. Russell Gurney, recorder of London, has been appointed Her Majesty's commissioner under the same article of the treaty.

I have, &c.,

GRANVILLE.

Mr. Moran to Mr. Fish.

[Telegram.]

LONDON, August 15, 1871.

Granville promptly instructed British minister to act with Mr. Marsh, and his lordship has received information that the two ministers have already acted on their similar instructions, and requested the consent of the Italian government to the selection of Count Corti as third commissioner.

No. 218.

Mr. Moran to Mr. Fish.

No. 371.]

LEGATION OF THE UNITED STATES,
London, September 14, 1871. (Received September 26.)

SIR: With reference to your No. 42 to General Schenck, I have the honor to state that Her Majesty's government publicly announced in Parliament, on the 11th of August, the appointment of Sir Alexander Cockburn, Bart., the Lord Chief Justice of Queen's Bench, as arbitrator under Article I of the treaty of Washington, and communicated this fact verbally to me through Lord Enfield on the 30th ultimo. At that date the commission of Sir Alexander had not been signed by the Queen, nor had the appointment been announced in the Gazette, but on the 15th of the month a telegram was sent to Mr. Pakenham instructing him to make known the appointment to you. It is not customary to make such announcements to foreign governments by note until after the appointments are gazetted, and hence the delay in this case; but the selection of Sir Alexander was communicated to me without hesitation. I accordingly notified Lord Granville by letter that the President had appointed Mr. Charles Francis Adams as the arbitrator to be named by him, and I now have the honor to send herewith a copy of that note. I also transmit a copy of his lordship's reply, in which he announced the appointment of Sir Alexander Cockburn by Her Majesty the Queen in a similar capacity.

As directed, I promptly communicated to Lord Granville by note the appointment of Mr. J. C. Bancroft Davis as agent on the part of the United States under Article II of the treaty, and now send copies of my letter, and of his lordship's acknowledgment thereof.

I also inclose copies of my note announcing to Lord Granville the appointment of Mr. Robert S. Hale as agent of the United States under Article XII of the treaty, and of his lordship's reply, informing me that Mr. Henry Howard, third secretary in Her Majesty's diplomatic service, had already been appointed to act in a similar capacity on behalf of the Queen's government.

I have, &c., &c.,

BENJAMIN MORAN.

LEGATION OF THE UNITED STATES,
London, August 31, 1871.

MY LORD: Under instruction from the honorable the Secretary of State of the United States, I have the honor to announce to your lordship that the President has appointed the Hon. Charles Francis Adams, of Massachusetts, as the arbitrator to be named by him under Article I of the treaty of Washington on the tribunal of arbitration to meet at Geneva in December next.

I have, &c., &c.,

BENJAMIN MORAN.

The Right Honorable the EARL GRANVILLE, &c., &c., &c.

FOREIGN OFFICE, *September 6, 1871.*

SIR: I have the honor to acknowledge the receipt of your note of the 31st ultimo, acquainting me that the President of the United States has appointed the Hon. Charles Francis Adams, of Massachusetts, as the arbitrator to be named by him under Article I of the treaty of Washington of May 8, on the tribunal of arbitration to meet at Geneva in December next.

I beg to take this opportunity of informing you that the Right Honorable Sir Alexander Cockburn, baronet, the Lord Chief Justice of Queen's Bench, has been appointed by Her Majesty the Queen in a similar capacity.

I have, &c.,

BENJAMIN MORAN, Esq., &c.

GRANVILLE.

LEGATION OF THE UNITED STATES,

London, August 30, 1871.

MY LORD: I am instructed by the honorable the Secretary of State at Washington to inform your lordship that the Hon. J. C. Bancroft Davis, the Assistant Secretary of State of the United States, has been appointed by the President the agent on the part of the United States to represent the Government of the United States generally in all matters connected with the arbitration under Article II of the treaty of Washington of the 8th of May, 1871.

I have, &c.,

BENJAMIN MORAN.

The Right Honorable the EARL GRANVILLE, &c., &c., &c.

FOREIGN OFFICE, *September 12, 1871.*

SIR: I have the honor to acknowledge the receipt of your note of the 30th ultimo, acquainting me that the Hon. J. C. Bancroft Davis, the Assistant Secretary of State of the United States, has been appointed by the President to act as the agent on behalf of the United States Government in all matters connected with arbitration under Article II of the treaty of Washington of the 8th of May.

I have, &c.,

GRANVILLE.

BENJAMIN MORAN, Esq., &c., &c., &c.

LEGATION OF THE UNITED STATES,

London, August 31, 1871.

MY LORD: By direction of the honorable the Secretary of State of the United States, I have the honor to inform you that the President has named Mr. Robert S. Hale, of New York, as the agent of the United States Government to attend the commissioners to be appointed under Article XII of the treaty of Washington of the 8th of May, 1871.

I have, &c.,

BENJAMIN MORAN.

The Right Honorable the EARL GRANVILLE, &c., &c., &c.

FOREIGN OFFICE, *September 6, 1871.*

SIR: I have the honor to acknowledge the receipt of your note of the 31st ultimo, acquainting me that the President of the United States has named Mr. Robert S. Hale, of New York, as the agent of the United States Government to attend the commissioners to be appointed under Article XII of the treaty of Washington of May 8.

I beg to take this opportunity of informing you that Mr. Henry Howard, third secretary in Her Majesty's diplomatic service, has been already appointed to act in a similar capacity on behalf of Her Majesty's government.

I have, &c.,

GRANVILLE.

BENJAMIN MORAN, Esq., &c., &c., &c.

No. 219.

CORRESPONDENCE WITH THE BRITISH LEGATION AT WASHINGTON.

*Mr. Fish to Sir Edward Thornton.*DEPARTMENT OF STATE,
Washington, April 29, 1871.

SIR: Information has reached this Department that the Canadian engineers engaged in constructing a wagon-road from Fort Garry to the Lake of the Woods have located a considerable portion of it, including its termination at a harbor in the Lake of the Woods, within territory belonging to the United States, the monument marking the northwestern limit of the United States above the 49th parallel of latitude being upward of seven miles north of the termination.

I will be obliged by your causing an inquiry to be made as to this alleged encroachment upon the jurisdiction of the United States, with a view, in the event that the statement is correct, that the work may be discontinued.

I have, &c.,

HAMILTON FISH.

No. 220.

Sir Edward Thornton to Mr. Fish.

WASHINGTON, May 1, 1871. (Received May 2.)

SIR: I have the honor to acknowledge the receipt of your note of the 29th ultimo relative to the information received by you, that a portion of a wagon-road which is being constructed by Canadian engineers from Fort Garry to the Lake of the Woods has been located within territory of the United States. I have forwarded a copy of your note to the Governor General of Canada, and have requested his excellency to cause inquiries to be made into the matter and to furnish me with the information he may obtain.

As soon as I shall receive it, I will not fail to communicate it to you.

I have the honor, &c.,

EDW'D THORNTON.

No. 221.

*Mr. Fish to Sir Edward Thornton.*DEPARTMENT OF STATE,
Washington, May 8, 1871.

SIR: As several articles of the treaty which has been signed this day, relating to the admission of citizens of the United States to fish within the territorial waters of Her Britannic Majesty on the coasts of Canada, Prince Edward Island, and Newfoundland, cannot come into full operation until the legislation contemplated in that instrument shall have taken place, and as it seems to be in accordance with the interest of both governments, in furtherance of the objects and spirit of the treaty, that the citizens of the United States should have the enjoyment of that

liberty during the present season, I am directed by the President to express to you his hope that Her Majesty's government will be prepared, in the event of the ratification of the treaty, to make on their own behalf, and to urge the governments of the Dominion of Canada, of Prince Edward Island, and of Newfoundland, to make for the season referred to, within their respective jurisdictions, such relaxations and regulations as it may respectively be in their power to adopt, with a view to the admission of American fishermen to the liberty which it is proposed to secure to them by the treaty. The Government of the United States would be prepared at the same time to admit British subjects to the right of fishing in the waters of the United States, specified in the treaty; but as the admission into the United States, free of duty, of any articles which are by law subject to duty cannot be allowed without the sanction of Congress, the President will, in case the above suggestion meets the views of the British government, recommend and urge upon Congress at their next session that any duties which may have been collected on and after the 1st day of July next on fish-oil and fish, (except fish of the inland lakes and of the rivers falling into the same, and except fish preserved in oil,) the produce of the fisheries of the Dominion of Canada and of Prince Edward Island shall be returned and refunded to the parties paying the same, if a similar arrangement is made with respect to the admission into the British possessions of fish-oil and fish, (with the like exception,) being the produce of the fisheries of the United States.

I have, &c.,

HAMILTON FISH.

No. 222.

Sir Edward Thornton to Mr. Fish.

WASHINGTON, May 9, 1871. (Received May 11.)

SIR: I have the honor to acknowledge the receipt of your note of yesterday's date, and to inform you in reply that I have been authorized by Earl Granville to state that in the event of the ratification of the treaty signed yesterday, Her Majesty's government will be prepared to recommend to the governments of the Dominion of Canada, of Prince Edward Island, and of Newfoundland, that the provisional arrangement proposed in your note above mentioned, with regard to the right of fishing by United States citizens on the coasts of those British possessions and by British subjects in the waters of the United States, described in Article XIX of the treaty, shall take effect during the coming season, on the understanding that the ultimate decision of this question must rest with the above-mentioned colonial governments, who would be asked to grant the immediate and certain right of fishing within the territorial waters of those colonies, whilst the return of the import duties on fish from the 1st of July next promised by the United States is prospective and contingent on the action of Congress.

I have the honor, &c.,

EDWD THORNTON.

No. 223.

Sir Edward Thornton to Mr. Fish.

WASHINGTON, May 24, 1871. (Received May 24.)

SIR: In compliance with an instruction which I have received from Lord Granville, I have the honor to inform you that in consequence of some differences which are pending between Great Britain and the republic of Liberia, Her Majesty's government made proposals for the adjustment of those differences, and for the settlement of the question of the limits of the northwestern boundaries of that republic.

Inclosed is a copy of a dispatch addressed by Lord Granville in October last to the President of Liberia, which conveys proposals for the mode of settlement of the above questions. You will perceive that in the event of any differences arising between the commissioners for settling the boundary question, it is proposed to submit the disputed points to the arbitration of a commissioner appointed by the Government of the United States. The Liberian government has since signified to Her Majesty's government its acceptance of the proposals made by the latter, and I am consequently instructed to ask the Government of the United States if it will be good enough to depute an officer to attend the commissioners appointed by both parties to meet at Monrovia, and to act as arbitrator in case of any disagreement between them.

It will give Her Majesty's government much pleasure if the Government of the United States will consent to accept the task of arbitrator in this question through one of its officers on whose impartial judgment it can rely, and whose expenses will, of course, be defrayed jointly by the British and Liberian governments. Copies of the necessary papers and maps will be eventually forwarded to Monrovia for the use of the commissioners, and Lord Granville would be glad to know, in case the Government of the United States should kindly accede to the request of that of Her Majesty, when the officer whom it may depute for this duty will be able to proceed there.

I have, &c.,

EDWARD THORNTON.

FOREIGN OFFICE, October 31, 1870.

SIR: I have carefully considered the papers which you left with me, consisting of copies and originals of deeds relating to the cession to Liberia of certain territories to the northward of the present recognized boundary limits. I beg leave to return them to you herewith.

I can only repeat what I have stated at our interviews, that it is impossible for Her Majesty's government to decide upon the validity of deeds, most of which they know to be disputed, upon an *ex parte* statement and without hearing the counter-statements and evidence which the chiefs interested may desire to produce, and I must therefore adhere to my opinion, that the question can only be satisfactorily solved by a commission of inquiry on the spot.

Her Majesty's government have not failed to give their careful consideration to the suggestions that you have made to them for the settlement of this question, and shortly before your arrival in this country they had received a proposal from the government of the Emperor of the French to join in an inquiry into the territorial claims of Liberia, and the communications which took place thereupon have led to the delay that has occurred in my reply to the communications of your government. Recent events in France will however probably prevent the French government from carrying out their intention of associating themselves in the proposed inquiry, and it remains therefore to consider how Her Majesty's government can best meet the wish of Liberia for a settle-

ment of the question. I wish, in the first place, shortly to explain the views and feelings of Her Majesty's government upon this subject, which seems to have been partly misunderstood, in order to assure you of the spirit in which they will enter into such an inquiry as I have indicated.

You are aware that they are prepared to extend their recognition of the Liberian boundary limits so as to include the Sagaree territory, which was admitted by the commission of 1863 to be proved to belong to Liberia.

It is therefore the claim of Liberia to the whole line of coast lying northward of this limit, between the Manna and Young Rivers, which provokes discussion and question. Within these limits the right of trading is the only interest which England possesses, except to the extreme northwest, in the neighborhood of the Shebar River, where her claims in some measure clash with those of Liberia, but this includes but a small portion of the district in dispute, and in the other portions England has no territorial pretensions.

There would therefore be no objection on the part of England at once to recognize the sovereignty of Liberia over the greater portion of these countries were it not that some of the native chiefs have repudiated the alleged cession of their territories and have denied that Liberia has any legal claim to them, and Her Majesty's government are therefore unwilling to hand over, these chiefs, with whom treaties have been concluded and faithfully observed, against their wishes and upon insufficient evidence of title, to the jurisdiction of Liberia, and they maintain that the justice of the Liberian pretensions can only be satisfactorily established by a strict and impartial investigation upon the spot into the title deeds upon which she rests her claims, and into any evidence against their validity that may be produced by the native chiefs.

The commission which met in 1863 for this purpose failed to accomplish its object, because the Liberian commissioners refused to allow the testimony of the native chiefs to be admitted as evidence against the title deeds which were produced on the part of Liberia or to join in any inquiry on the subject, but Her Majesty's government are unable to understand why the Liberian government have objected to an examination on the spot of the evidence on which they rest their claims, which, if they are well founded, would establish their justice and expose the weakness of the conflicting statements of the native chiefs and the frauds which you allege to be practiced by them in the sale of their lands.

Her Majesty's government consider that the Liberian government should withdraw this objection and agree to the examination of all the evidence that may be adduced on either side, and if they consent to do so, I beg to assure you that the instructions to the British commissioners will be dictated by a spirit of strict impartiality and a desire to recognize the claims of Liberia wherever they are proved to be just and well founded.

Her Majesty's government must, however, exclude from further consideration the claims arising out of the case of the Elisabeth, and the plunder of the property of British subjects in the Mannah River district.

Whether or not the pretensions of Liberia to the sovereignty of the district in question are proved to be well founded, the fact will remain the same that Her Majesty's government had frequently warned the Liberian government that they could not recognize their claim to this territory without further investigation; but, in defiance of these warnings, the Liberian government chose to prejudge the question by taking the law into their own hands, committing outrages to which it was impossible passively to submit, and which left Her Majesty's government no option but to pursue the course which they eventually took to obtain reparation. I can assure you, however, that these measures were taken with the greatest reluctance, and that the officer intrusted with the mission was strictly enjoined so to conduct his proceedings as to wound as little as possible the dignity of Liberia; but, for these reasons, Her Majesty's government cannot permit this question, which they consider as settled, to be re-opened, and, although I have no wish to press unduly upon your government for the payment of the compensation at a moment when the finances of Liberia are in a disorganized condition, I must point out to you that the solemn obligation which your government contracted in this case must be fulfilled as soon as possible, and that Her Majesty's government cannot consent to any modification of its terms.

As regards the question of appointing a British consul to reside in Liberia, which your government has often pressed upon the attention of Her Majesty's government, I regret to state that the British trade with the republic, hampered as it is by the restrictions imposed by the Liberian law of 1863, is not, at present, of sufficient importance to warrant the creation of such an appointment, but if the Liberian government think fit to relieve foreign trade from these restrictions and to adopt a more liberal commercial policy, leading to the extension and increased importance of British trade, Her Majesty's government will then be happy to entertain the proposal.

In conclusion, I beg leave to inclose the draft of a note containing the basis of an agreement as to the terms upon which a joint commission of inquiry might be appointed, and while cordially reciprocating the wishes you have expressed for the cultivation

of the most friendly feelings between Great Britain and Liberia, I would point out to you that this can be best attained by a prompt and honorable settlement of all questions in dispute between our two governments.

I am, &c., &c.,

GRANVILLE.

To President ROYE.

Draught of proposals for the settlement of the Liberian boundary question.

Her Majesty's government, being desirous of putting an end to the present uncertainty regarding the correct boundary limits of Liberia, and having been in communication with the government of Liberia respecting the best means of arriving at a common understanding upon the subject, have agreed to the following proposals for the settlement of the question :

1. As the British government, while agreeing to recognize the actual limits of the republic as comprising the coast-line between Cape Palmas, to the south, and the south bank of the river Solyman, to the northwest, cannot admit, without further inquiry, the claims advanced by Liberia to the line of coast northward of this boundary, lying between the Solyman and Shebar rivers :

2. As some of the native chiefs within these limits have denied the alleged cession of their territories to Liberia, and repudiated her claims to them, the British government propose that a joint commission, consisting of two British and two Liberian commissioners, shall be appointed to investigate, on the spot, the disputed claims of Liberia, and to define her boundary limits.

3. The commissioners shall be fully empowered to inquire into the validity of the title-deeds that the Liberian commissioners may produce in support of their claims, and to entertain all and any evidence to the contrary that the native chiefs and other claimants may desire to submit to them.

4. The decision of the commissioners is to be considered as final and absolute, and, in the event of any disagreement between them, the points in dispute shall be left to the arbitration of the United States, who shall, if necessary, be invited to send out an officer to the commission.

5. The commissioners are to limit their inquiry strictly to the question of boundaries, and are not to entertain any other subject of discussion.

No. 224.

Mr. Fish to Sir Edward Thornton.

DEPARTMENT OF STATE,

Washington, June 24, 1871.

SIR: Much anxiety is expressed and made known to this Department on the part of those concerned in the mackerel fishery near the coasts of the British provinces, the season for which is about to open. Though aware that they cannot yet technically claim the privileges and immunities promised to them in the treaty of Washington, they were in hopes that, through the forbearance of Her Majesty's authorities and those of the colonies, they might no longer be subjected to the annoyances to which they have hitherto been liable. You are aware that I have had reason to share in those hopes. Believing, as I firmly do, that if they should be disappointed, much irritation would be occasioned, which it is desirable should be avoided, and apprehending that the legislation on the part of the United States, stipulated for in the treaty, might otherwise at least be retarded, I pray you again to move the respective imperial or colonial authorities, that nothing practicable or reasonable may be omitted which might tend to the result desired.

If you should think favorably of this request, you will pardon me for adding that it is highly important that it should be complied with as soon as may be convenient.

I have, &c.,

HAMILTON FISH.

No. 225.

Sir Edward Thornton to Mr. Fish.

WASHINGTON, June 26, 1871. (Received June 27.)

SIR: I have the honor to acknowledge the receipt of your note of the 24th instant, and to assure you that as far as the action of Her Majesty's naval officers or of those of the Canadian government is concerned, there is no cause for anxiety to citizens of the United States engaged in the fisheries in the neighborhood of the British provinces, so long as they may respect the laws upon the subject now in force. The tenor of the instructions issued to those officers both by Her Majesty's government and by that of the Dominion are of the most liberal nature, and though they continue to hold the opinion that under the treaty of 1818 United States fishermen are prohibited from frequenting colonial ports and harbors for any other purposes but for shelter, repairing damages, purchasing wood, and obtaining water, such prohibition will not be enforced during the present season, and they will be allowed to enter Canadian ports for the purposes of trade, and of transshipping fish and procuring supplies, nor will they be prevented from fishing outside of the three-mile limit in bays the mouth of which is more than six miles wide.

It is to be hoped, however, that citizens of the United States will, on their part, contribute to the prevention of untimely collisions, by refraining from encroaching, for the purpose of fishing, upon those waters from which, by the treaty of 1818 and by the laws of Great Britain and Canada, they are excluded, until the legislation for insuring to them the privileges and immunities agreed upon by the treaty of the 8th ultimo shall have been carried out.

I have the honor, &c.,

EDW'D THORNTON.

No. 226.

Sir Edward Thornton to Mr. Davis.

WASHINGTON, July 11, 1871. (Received July 12.)

SIR: With reference to a note dated the 29th of April last, which I received from the Secretary of State, I have the honor to inclose copy of a dispatch from the Governor General of Canada relative to an alleged encroachment on United States territory by Canadian engineers in locating a wagon-road from Fort Garry to the Lake of the Woods. You will perceive that the Canadian minister of public works requests that he may be furnished with a sketch showing where the alleged encroachment has taken place, and that he may be informed of the exact locality of the monument at the northwestern limit of the United States of America, to which reference is made in Mr. Fish's letter.

I shall accordingly feel much obliged to you if you will supply me with this information.

I have the honor, &c.,

EDW'D THORNTON.

No. 24.]

CANADA, Cacoura, July 5, 1871.

SIR: With reference to your dispatch of May 1, 1871, (No. 14,) on the subject of certain alleged encroachment on United States territory by Canadian engineers in locating

a wagon-road from Fort Garry to the Lake of the Woods, I have the honor to inclose, for the information of Mr. Secretary Fish, a copy of a minute of the privy council of the Dominion of Canada, covering a memorandum by the minister of public works requesting that he may be furnished with a "sketch showing where the alleged encroachment has taken place," and that he may be informed of "the exact locality of the monument at the northwestern limit of the United States of America," to which reference is made in Mr. Fish's letter.

I am, &c.,

LISGARD.

Copy of a report of the honorable the Privy Council, dated June 22, 1871.

The committee have had under consideration the memorandum dated June 22, 1871, from the honorable the minister of public works, on the dispatch from the British minister at Washington, respecting certain alleged encroachments by the Canadian engineers in locating a wagon-road from Fort Garry to the Lake of the Woods, including the termination of it, within territory belonging to the United States, and they respectfully report their concurrence in the recommendation made in the said memorandum, and advise that the same be approved and acted upon.

Certified:

WM. H. LEE,
Clerk Privy Council, Canada.

Memorandum.

DEPARTMENT OF PUBLIC WORKS,
Ottawa, June 22, 1871.

The undersigned has had submitted for his report a dispatch from the British minister at Washington forwarding for your excellency's information a letter from Mr. Fish, Secretary of State for the United States of America, in which complaint is made that "the Canadian engineers engaged in constructing a wagon-road from Fort Garry to the Lake of the Woods have located a considerable portion of it, including its termination, at a harbor in the Lake of the Woods within territory belonging to the United States, the monument marking the northwestern limit of the United States above the 49th parallel of latitude being upward of seven miles north of the termination."

The undersigned has also had submitted for his information a dispatch from his honor the lieutenant governor of Manitoba, dated March 27, 1871, (No. 136,) bringing to your excellency's notice an alleged mistake by the commissioners who placed and determined the site of the monument which serves to indicate the northwest angle of the Lake of the Woods, pointing out the inconvenience of that portion of the boundary line which runs due south from the said monument to the 49th parallel of north latitude, and submitting for your excellency's consideration the opportuneness of bringing the whole subject before competent authorities for rectification and adjustment.

A report from Mr. Dawson, superintending engineer of the Red River route, accompanied by partially explanatory maps, dated May 23, 1871, states that "the road leading from Fort Garry to the Lake of the Woods has its termination close to the extreme westerly point of the northwest angle, and that the engineers engaged in locating it have no knowledge of any part of it being within the territory of the United States."

From these documents it is inferred that the site of a certain monument placed as a basis to determine the exact point taken at the northwest, has been mistaken for the northwest angle itself; and, consequently, that the alleged encroachment of Canadian engineers upon United States territory may be explained to the satisfaction of all the parties interested.

Pending further inquiry and survey, about to be made by the engineers of the Red River route, and the production of more perfect maps of the region surrounding the Lake of the Woods, the undersigned has the honor to recommend: That the Department of State, at Washington, be requested to furnish a sketch showing where the alleged encroachment has taken place, and the exact locality of the monument at the northwestern limit of the United States of America to which reference is made in Mr. Fish's letter, or that it be left to the joint commission who are to settle the boundary line between the United States and Manitoba to ascertain and re-mark the northwest angle.

Respectfully submitted.

HECTOR L. LANGWIN,
Minister of Public Works.

No. 227.

Mr. Davis to Sir Edward Thornton.

DEPARTMENT OF STATE,

Washington, July 14, 1871.

SIR: I have the honor to acknowledge the receipt of your note of the 11th instant, and of its accompaniments, making known to the Department the wish of the Canadian minister of public works to obtain a sketch showing where the alleged encroachment was made on United States territory by Canadian engineers, in locating a wagon-road from Fort Garry to the Lake of the Woods, and information as to the exact locality of the monument at the northwestern limit of the United States, above the 49th parallel of latitude.

I have the honor to inform you, in reply, that the subject will receive early attention, and to be, with the highest consideration,

Yours, &c.,

J. C. B. DAVIS,
Acting Secretary.

No. 228.

Mr. Pakenham to Mr. Davis.

WASHINGTON, July 26, 1871. (Received July 27.)

SIR: I have the honor to inform you that intelligence has reached me from the lieutenant governor of Prince Edward Island, to the effect that that government yesterday decided not to enforce the fishery laws during the present season, and pending the consideration of the treaty by the legislature of that portion of Her Majesty's dominions.

I have the honor, &c.,

F. J. PAKENHAM.

No. 229.

Mr. Pakenham to Mr. Fish.

WASHINGTON, July 27, 1871. (Received July 28.)

SIR: I have been instructed by Earl Granville to inform the Government of the United States that Her Majesty's government have appointed Mr. Russell Gurney, recorder of London, to be British claims commissioner, and I accordingly lose no time in acquainting you with the fact of the above nomination.

I have the honor, &c.,

F. J. PAKENHAM.

No. 230.

*Mr. Davis to Mr. Pakenham.*DEPARTMENT OF STATE,
Washington, August 9, 1871.

MY DEAR MR. PAKENHAM: Dennis C. Murphy, master of the Lizzie A. Tarr, of Gloucester, has stated, under oath, facts in regard to the action of Her Majesty's naval officers toward him on the Newfoundland coast which lead me to apprehend that they are not acting in accordance with wishes and instructions of Her Majesty's government, so far as we are able to judge of those wishes and instructions from the correspondence which has taken place since the conclusion of the treaty of Washington.

The facts stated are that, on the 7th of June last, the Lizzie A. Tarr, being bound on a fishing voyage to the Banks, entered Lambley Harbor, Grand Jarvis, Newfoundland, to buy bait. She was boarded by a boat from the British war steamer *Danæ*, and was ordered to leave, and refused the privilege of purchasing fresh bait. Captain Murphy inquired as to the authority of such action, but got no reply. He avers that then the British officers tripped the seine then in the hands of English fishermen, and let out the herring, so that no bait could be sold, saying to the fishermen, "What are you doing? If I catch you selling bait to Yankees I will cut up your seine. Where are you to get bread next winter?" Captain Murphy then left the harbor, but as the wind began to blow and rain commenced, he went back for shelter. A boat from the *Danæ* was lying in wait for him. The officers came on board and showed him a written order from the captain to seize the Lizzie A. Tarr, against which Murphy protested, claiming the right of shelter, but was required to agree in writing to go out at daylight. Murphy declares that this action caused a delay of three weeks, and a loss to all concerned of not less than \$2,000.

I would be glad if you would bring the case to the attention of the proper authorities, with a view to the adoption of a more friendly and hospitable treatment of our fishermen, if such conduct shall prove to have been manifested as is reported by Captain Murphy.

Faithfully, yours,

J. C. B. DAVIS,
Acting Secretary.

No. 231.

Mr. Pakenham to Mr. Davis.

WASHINGTON, August 15, 1871. (Received August 16.)

SIR: I have the honor to acquaint you that official information has this day reached me to the effect that Sir Alexander Cockburn, chief justice of England, has been appointed arbitrator on behalf of Her Majesty's government, under article I of the treaty of Washington of the 8th of May last.

I have the honor, &c.,

F. J. PAKENHAM.

No. 232.

*Mr. Davis to Mr. Packenham.*DEPARTMENT OF STATE,
Washington, August 19, 1871.

SIR: I have received your note of the 15th instant, in which you inform me of the appointment of Sir Alexander Cockburn, chief justice of England, as arbitrator on the part of Her Majesty's government, under Article I of the treaty of Washington, of the 8th of May last.

I avail myself of this occasion to acquaint you of the appointment by the President of Mr. Charles Francis Adams as the arbitrator on the part of the Government of the United States to be named by the President, under Article I of the treaty of Washington, of the 8th of May above referred to, and also of that of Mr. James S. Frazer, late of the supreme court of Indiana, as commissioner on the part of the Government of the United States, under Article XII of the same treaty.

I am, &c.,

J. C. B. DAVIS,
Acting Secretary.

No. 233.

*Mr. Packenham to Mr. Davis.*WASHINGTON, *September 18, 1871.*
(Received September 19.)

SIR: I am instructed by Earl Granville to submit, for the consideration of the Government of the United States, a proposal, on the part of the government of Newfoundland, that American fishermen should be admitted to the right of taking seals within the territorial jurisdiction of Newfoundland and of making outfit in the ports of that island, on the condition of the admission of the produce of the Newfoundland seal-fishery into the United States free of duty.

I am to add that Her Majesty's government would be glad if the above proposal could be acceded to.

I have the honor, &c.,

F. J. PACKENHAM.

No. 234.

*Mr. Davis to F. J. Packenham.*DEPARTMENT OF STATE,
Washington, September 23, 1871.

SIR: I have the honor to acknowledge the receipt of your note of the 18th instant, informing me that you are instructed to submit for the consideration of this Government a proposal, on the part of the government of Newfoundland, that American fishermen should be admitted to the right of taking seals within the territorial jurisdiction of Newfoundland, and of making outfit in the ports of that island, on the condition of the admission of the produce of the Newfoundland seal-fishery into the United States free of duty. You, at the same time, inform me that Her Majesty's government would be glad if the above proposal could be acceded to.

In reply, I have the honor to inform you that the subject will receive consideration, but that the proposal is one which needs congressional approval before it can be definitely accepted by this Department.

I have the honor to be, with the highest consideration, sir, your obedient servant,

J. C. B. DAVIS,
Acting Secretary.

No. 235.

3.—THE TREATY OF WASHINGTON.

Protocols of conference between the high commissioners on the part of the United States of America and the high commissioners on the part of Great Britain.

I.—PROTOCOL OF CONFERENCE BETWEEN THE HIGH COMMISSIONERS ON THE PART OF THE UNITED STATES OF AMERICA AND THE HIGH COMMISSIONERS ON THE PART OF GREAT BRITAIN.

WASHINGTON, *February 27, 1871.*

The high commissioners having met, their full powers were respectively produced, which were found satisfactory, and copies thereof exchanged, as follows:

ULYSSES S. GRANT, *President of the United States of America, to all who shall see these presents, greeting:*

Know ye that, reposing special trust and confidence in the integrity and ability of Hamilton Fish, Secretary of State; Robert C. Schenck, Envoy Extraordinary and Minister Plenipotentiary to Great Britain; Samuel Nelson, an Associate Justice of the Supreme Court of the United States; Ebenezer R. Hoar, of Massachusetts, and George H. Williams, of Oregon, I have nominated and, by and with the advice and consent of the Senate, do appoint them jointly and severally, to be Commissioners on the part of the United States, in a Joint High Commission between the United States and Great Britain; hereby empowering them, jointly and severally, to meet the Commissioners appointed or to be appointed on behalf of Her Britannic Majesty, and with them to treat and discuss the mode of settlement of the different questions which shall come before the said Joint High Commission, and the said office to hold and exercise during the pleasure of the President of the United States, for the time being.

In testimony whereof I have caused these letters to be made patent, and the seal of the United States to be hereunto affixed.

Given under my hand at the city of Washington, this tenth day of February, in the [SEAL.] year of our Lord one thousand eight hundred and seventy-one, and of the independence of the United States of America the ninety-fifth.

U. S. GRANT.

By the President:

HAMILTON FISH,
Secretary of State.

VICTORIA, REG.—VICTORIA, *by the Grace of God, Queen of the United Kingdom of Great Britain and Ireland, Defender of the Faith, &c., &c., &c., To All and Singular to whom these Presents shall come, Greeting:*

Whereas for the purpose of discussing in a friendly spirit, with Commissioners to be appointed on the part of our Good Friends The United States of America, the various questions on which differences have arisen between Us and Our said Good Friends, and of treating for an Agreement as to the mode of their amicable settlement, We have judged it expedient to invest fit persons with Full Power to conduct on Our Part the discussions in this behalf:—Know Ye, therefore, that We, reposing especial Trust and Confidence in the Wisdom, Loyalty, Diligence, and Circumspection of Our

Right Trusty and Right Well-beloved Cousin and Councillor George Frederick Samuel Earl de Grey and Earl of Ripon, Viscount Goderich, Baron Grantham, a Baronet, a Peer of Our United Kingdom, President of our Most Honourable Privy Council, Knight of Our Most Noble Order of the Garter, &c., &c.; of Our Right Trusty and Well-beloved Councillor Sir Stafford Henry Northcote, Baronet, a Member of Parliament, Companion of Our Most Honourable Order of the Bath, &c., &c.; of Our Trusty and Well-beloved Sir Edward Thornton, Knight Commander of Our Most Honourable Order of the Bath, Our Envoy Extraordinary and Minister Plenipotentiary to Our Good Friends The United States of America; of Our Trusty and Well-beloved Sir John Alexander Macdonald, Knight Commander of Our Most Honourable Order of the Bath, a Member of Our Privy Council for Canada, and Minister of Justice and Attorney-General of our Dominion of Canada; and of Our Trusty and Well-beloved Mountague Bernard, Esquire, Chichele Professor of International Law in the University of Oxford; have named, made, constituted, and appointed, as We do by these Presents name, make, constitute, and appoint them Our undoubted High Commissioners, Procurators, and Plenipotentiaries:—Giving to them, or to any three or more of them, all manner of Power and Authority to treat, adjust, and conclude with such Minister or Ministers as may be vested with similar Power and Authority on the part of Our Good Friends The United States of America, any Treaties, Conventions, or Agreements that may tend to the attainment of the abovementioned end, and to sign for Us, and in Our Name, everything so agreed upon and concluded, and to do and transact all such other matters as may appertain to the finishing of the aforesaid work in as ample manner and form, and with equal force and efficacy, as We Ourselves could do, if Personally Present:—Engaging and Promising upon Our Royal Word, that whatever things shall be so transacted and concluded by Our said High Commissioners, Procurators, and Plenipotentiaries, shall be agreed to, acknowledged, and accepted by Us in the fullest manner, and that We will never suffer, either in the whole or in part, any person whatsoever to infringe the same, or act contrary thereto, as far as it lies in Our Power.

In Witness whereof We have caused the Great Seal of Our United Kingdom of Great Britain and Ireland to be affixed to these Presents, which We have signed with Our Royal Hand.

Given at Our Court at Windsor Castle, the Sixteenth day of February, in the Year of Our Lord One Thousand Eight Hundred and Seventy One, and in the Thirty Fourth Year of our Reign.

It was proposed by the British high commissioners that Mr. Fish, Secretary of State of the United States, should preside.

The United States commissioners stated that, although appreciating the proposal, they did not consider it necessary that a president should be named.

The high commissioners, on the suggestion of Mr. Fish, requested Lord Tenterden, secretary to the British high commission, and Mr. Bancroft Davis, Assistant Secretary of State of the United States, acting as secretary to the United States high commission, to undertake the duties of joint protocolists.

The high commissioners then agreed that the subjects for discussion should be those mentioned in the following correspondence which had taken place between the two governments:

1. *Sir Edward Thornton to Mr. Fish.*

WASHINGTON, January 25, 1871.

SIR: In compliance with an instruction which I have received from Earl Granville, I have the honor to state that Her Majesty's government deem it of importance to the good relations which they are ever anxious should subsist and be strengthened between the United States and Great Britain, that a friendly and complete understanding should be come to between the two governments as to the extent of the rights which belong to the citizens of the United States and Her Majesty's subjects, respectively, with reference to the fisheries on the coasts of Her Majesty's possessions in North America, and as to any other questions between them which affect the relations of the United States towards those possessions.

As the consideration of these matters would, however, involve investigations of a somewhat complicated nature, and as it is very desirable that they should be thoroughly examined, I am directed by Lord Granville to propose to the Government of the United States the appointment of a joint high commission, which shall be composed of members to be named by each government; shall hold its sessions at Wash-

ington, and shall treat of and discuss the mode of settling the different questions which have arisen out of the fisheries, as well as all those which affect the relations of the United States towards Her Majesty's possessions in North America.

I am confident that this proposal will be met by your Government in the same cordial spirit of friendship which has induced Her Majesty's government to tender it, and I cannot doubt that in that case the result will not fail to contribute to the maintenance of the good relations between the two countries, which I am convinced the Government of the United States, as well as that of Her Majesty, equally have at heart.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

EDWARD THORNTON.

HON. HAMILTON FISH, &c., &c.

2. Mr. Fish to Sir Edward Thornton.

DEPARTMENT OF STATE,
Washington, January 30, 1871.

SIR: I have the honor to acknowledge the receipt of your note of January 26, in which you inform me, in compliance with instructions from Earl Granville, that Her Majesty's government deem it of importance to the good relations which they are ever anxious should subsist and be strengthened between the United States and Great Britain, that a friendly and complete understanding should be come to between the two governments as to the extent of the rights which belong to the citizens of the United States and Her Majesty's subjects, respectively, with reference to the fisheries on the coasts of Her Majesty's possessions in North America, and as to any other questions between them which affect the relations of the United States towards those possessions; and, further, that as the consideration of these questions would involve investigations of a somewhat complicated nature, and as it is very desirable that they should be thoroughly examined, you are directed by Lord Granville to propose to the Government of the United States the appointment of a joint high commission, which shall be composed of members to be named by each government; shall hold its sessions at Washington, and shall treat of and discuss the mode of settling the different questions which have arisen out of the fisheries, as well as all those which affect the relations of the United States toward Her Majesty's possessions in North America.

I have laid your note before the President, who instructs me to say that he shares with Her Majesty's government the appreciation of the importance of a friendly and complete understanding between the two governments, with reference to the subjects specially suggested for the consideration of the proposed joint high commission, and he fully recognizes the friendly spirit which has prompted the proposal.

The President is, however, of the opinion that without the adjustment of a class of questions not alluded to in your note, the proposed high commission would fail to establish the permanent relations and the sincere, substantial, and lasting friendship between the two governments which, in common with Her Majesty's government, he desires should prevail.

He thinks that the removal of the differences which arose during the rebellion in the United States, and which have existed since then, growing out of the acts committed by the several vessels which have given rise to the claims generically known as the Alabama claims, will also be essential to the restoration of cordial and amicable relations between the two governments. He directs me to say that should Her Majesty's government accept this view of the matter, and assent that this subject also may be treated of by the proposed high commission, and may thus be put in the way of a final and amicable settlement, this Government will, with much pleasure, appoint high commissioners on the part of the United States, to meet those who may be appointed on behalf of Her Majesty's government, and will spare no efforts to secure, at the earliest practicable moment, a just and amicable arrangement of all the questions which now unfortunately stand in the way of an entire and abiding friendship between the two nations.

I have the honor to be, with the highest consideration, sir, your obedient servant,
HAMILTON FISH.

Sir EDWARD THORNTON, K. C. B., &c., &c., &c.

3. *Sir Edward Thornton to Mr. Fish.*

WASHINGTON, February 1, 1871.

SIR: I have the honor to acknowledge the receipt of your note of the 30th ultimo, and to offer you my sincere and cordial thanks for the friendly and conciliatory spirit which pervades it.

With reference to that part of it in which you state that the President thinks that the removal of the differences which arose during the rebellion in the United States, and which have existed since then, growing out of the acts committed by the several vessels which have given rise to the claims generically known as the Alabama claims, will also be essential to the restoration of cordial and amicable relations between the two governments, I have the honor to inform you that I have submitted to Earl Granville the opinion thus expressed by the President of the United States, the friendliness of which, I beg you to believe, I fully appreciate.

I am now authorized by his lordship to state that it would give Her Majesty's government great satisfaction if the claims commonly known by the name of the Alabama claims were submitted to the consideration of the same high commission by which Her Majesty's government have proposed that the questions relating to the British possessions in North America should be discussed, provided that all other claims, both of British subjects and citizens of the United States, arising out of acts committed during the recent civil war in this country, are similarly referred to the same commission. The expressions made use of in the name of the President in your above-mentioned note, with regard to the Alabama claims, convince me that the Government of the United States will consider it of importance that these causes of disputes between the two countries should also, and at the same time, be done away with, and that you will enable me to convey to my government the assent of the President to the addition which they thus propose to the duties of the high commission, and which cannot fail to make it more certain that its labors will lead to the removal of all differences between the two countries.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

EDWARD THORNTON.

Hon. HAMILTON FISH, *&c.*, *&c.*, *&c.*4. *Mr. Fish to Sir Edward Thornton.*

DEPARTMENT OF STATE,

Washington, February 3, 1871.

SIR: I have the honor to acknowledge the receipt of your note of the 1st instant, in which you inform me that you are authorized by Earl Granville to state that it would give Her Majesty's government great satisfaction if the claims commonly known by the name of the "Alabama claims" were submitted to the consideration of the same high commission by which Her Majesty's government have proposed that the questions relating to the British possessions in North America should be discussed, provided that all other claims, both of British subjects and citizens of the United States, arising out of acts committed during the recent civil war in this country, are similarly referred to the same commission.

I have laid your note before the President, and he has directed me to express the satisfaction with which he has received the intelligence that Earl Granville has authorized you to state that Her Majesty's government has accepted the views of this Government as to the disposition to be made of the so-called "Alabama claims."

He also directs me to say, with reference to the remainder of your note, that if there be other and further claims of British subjects, or of American citizens, growing out of acts committed during the recent civil war in this country, he assents to the propriety of their reference to the same high commission; but he suggests that the high commissioners shall consider only such claims of this description as may be presented by the governments of the respective claimants at an early day, to be agreed upon by the commissioners.

I have the honor to be, with the highest consideration, sir, your obedient servant,
HAMILTON FISH.

Sir EDWARD THORNTON, *K. C. B.*, *&c.*, *&c.*, *&c.*

The commissioners further determined that the discussion might include such other matters as might be mutually agreed upon.

The meeting of the high commissioners was then adjourned to the 4th of March.

J. C. BANCROFT DAVIS.
TENTERDEN.

II.—PROTOCOL OF CONFERENCE BETWEEN THE HIGH COMMISSIONERS
ON THE PART OF THE UNITED STATES OF AMERICA AND THE HIGH
COMMISSIONERS ON THE PART OF GREAT BRITAIN.

WASHINGTON, *March 4, 1871.*

The high commissioners having met, the protocol of the conference held on the 27th of February was read and confirmed.

At the commencement of the conference the United States high commissioners called attention to the provision in the Constitution of the United States by which the advice and consent of the Senate is required for the ratification of any treaty which may be signed under the authority of the President.

The British high commissioners stated that they were acquainted with this provision.

The high commissioners then proceeded with the consideration of the matters referred to them.

The conference was adjourned to the 6th of March.

J. C. BANCROFT DAVIS.
TENTERDEN.

III.—PROTOCOL OF CONFERENCE BETWEEN THE HIGH COMMISSIONERS
ON THE PART OF THE UNITED STATES OF AMERICA AND THE HIGH
COMMISSIONERS ON THE PART OF GREAT BRITAIN.

WASHINGTON, *March 6, 1871.*

The high commissioners having met, the protocol of the conference held on the 4th of March was read and confirmed.

The high commissioners then proceeded with the consideration of the matters referred to them.

The conference was adjourned to the 8th of March.

J. C. BANCROFT DAVIS.
TENTERDEN.

IV.—PROTOCOL OF CONFERENCE BETWEEN THE HIGH COMMISSIONERS
ON THE PART OF THE UNITED STATES OF AMERICA AND THE HIGH
COMMISSIONERS ON THE PART OF GREAT BRITAIN.

WASHINGTON, *March 8, 1871.*

The high commissioners having met, the protocol of the conference held on the 6th of March was read and confirmed.

The high commissioners then proceeded with the consideration of the matters referred to them.

The conference was adjourned to the 9th of March.

J. C. BANCROFT DAVIS.
TENTERDEN.

V.—PROTOCOL OF CONFERENCE BETWEEN THE HIGH COMMISSIONERS
ON THE PART OF THE UNITED STATES OF AMERICA AND THE HIGH
COMMISSIONERS ON THE PART OF GREAT BRITAIN.

WASHINGTON, *March 9, 1871.*

The high commissioners having met, the protocol of the conference held on the 8th of March was read and confirmed.

The high commissioners then proceeded with the consideration of the matters referred to them.

The conference was adjourned to the 10th of March.

J. C. BANCROFT DAVIS.
TENTERDEN.

VI.—PROTOCOL OF CONFERENCE BETWEEN THE HIGH COMMISSIONERS
ON THE PART OF THE UNITED STATES OF AMERICA AND THE HIGH
COMMISSIONERS ON THE PART OF GREAT BRITAIN.

WASHINGTON, *March 10, 1871.*

The high commissioners having met, the protocol of the conference held on the 9th of March was read and confirmed.

The high commissioners then proceeded with the consideration of the matters referred to them.

The conference was adjourned to the 13th of March.

J. C. BANCROFT DAVIS.
TENTERDEN.

VII.—PROTOCOL OF CONFERENCE BETWEEN THE HIGH COMMISSIONERS
ON THE PART OF THE UNITED STATES OF AMERICA AND THE HIGH
COMMISSIONERS ON THE PART OF GREAT BRITAIN.

WASHINGTON, *March 13, 1871.*

The high commissioners having met, the protocol of the conference held on the 10th of March was read and confirmed.

The high commissioners then proceeded with the consideration of the matters referred to them.

The conference was adjourned to the 14th of March.

J. C. BANCROFT DAVIS.
TENTERDEN.

VIII.—PROTOCOL OF CONFERENCE BETWEEN THE HIGH COMMISSIONERS
ON THE PART OF THE UNITED STATES OF AMERICA AND THE HIGH
COMMISSIONERS ON THE PART OF GREAT BRITAIN.

WASHINGTON, *March 14, 1871.*

The high commissioners having met, the protocol of the conference held on the 13th of March was read and confirmed.

The high commissioners then proceeded with the consideration of the matters referred to them.

The conference was adjourned to the 15th of March.

J. C. BANCROFT DAVIS.
TENTERDEN.

**IX.—PROTOCOL OF CONFERENCE BETWEEN THE HIGH COMMISSIONERS
ON THE PART OF THE UNITED STATES OF AMERICA AND THE HIGH
COMMISSIONERS ON THE PART OF GREAT BRITAIN.**

WASHINGTON, *March 15, 1871.*

The high commissioners having met, the protocol of the conference held on the 14th of March was read and confirmed.

The high commissioners then proceeded with the consideration of the matters referred to them.

The conference was adjourned to the 16th of March.

J. C. BANCROFT DAVIS.
TENTERDEN.

**X.—PROTOCOL OF CONFERENCE BETWEEN THE HIGH COMMISSIONERS
ON THE PART OF THE UNITED STATES OF AMERICA AND THE HIGH
COMMISSIONERS ON THE PART OF GREAT BRITAIN.**

WASHINGTON, *March 16, 1871.*

The high commissioners having met, the protocol of the conference held on the 15th of March was read and confirmed.

The high commissioners then proceeded with the consideration of the matters referred to them.

The conference was adjourned to the 17th of March.

J. C. BANCROFT DAVIS.
TENTERDEN.

**XI.—PROTOCOL OF CONFERENCE BETWEEN THE HIGH COMMISSIONERS
ON THE PART OF THE UNITED STATES OF AMERICA AND THE HIGH
COMMISSIONERS ON THE PART OF GREAT BRITAIN.**

WASHINGTON, *March 17, 1871.*

The high commissioners having met, the protocol of the conference held on the 16th of March was read and confirmed.

The high commissioners then proceeded with the consideration of the matters referred to them.

The conference was adjourned to the 18th of March.

J. C. BANCROFT DAVIS.
TENTERDEN.

**XII.—PROTOCOL OF CONFERENCE BETWEEN THE HIGH COMMISSIONERS
ON THE PART OF THE UNITED STATES OF AMERICA AND THE HIGH
COMMISSIONERS ON THE PART OF GREAT BRITAIN.**

WASHINGTON, *March 18, 1871.*

The high commissioners having met, the protocol of the conference held on the 17th of March was read and confirmed.

The high commissioners then proceeded with the consideration of the matters referred to them.

The conference was adjourned to the 20th of March.

J. C. BANCROFT DAVIS.
TENTERDEN.

**XIII.—PROTOCOL OF CONFERENCE BETWEEN THE HIGH COMMISSIONERS
ON THE PART OF THE UNITED STATES OF AMERICA AND THE HIGH
COMMISSIONERS ON THE PART OF GREAT BRITAIN.**

WASHINGTON, *March 20, 1871.*

The high commissioners having met, the protocol of the conference held on the 18th of March was read and confirmed.

The high commissioners then proceeded with the consideration of the matters referred to them.

The conference was adjourned to the 22d of March.

J. C. BANCROFT DAVIS.
TENTERDEN.

**XIV.—PROTOCOL OF CONFERENCE BETWEEN THE HIGH COMMISSIONERS
ON THE PART OF THE UNITED STATES OF AMERICA AND THE HIGH
COMMISSIONERS ON THE PART OF GREAT BRITAIN.**

WASHINGTON, *March 22, 1871.*

The high commissioners having met, the protocol of the conference held on the 20th of March was read and confirmed.

The high commissioners then proceeded with the consideration of the matters referred to them.

The conference was adjourned to the 23d of March.

J. C. BANCROFT DAVIS.
TENTERDEN.

**XV.—PROTOCOL OF CONFERENCE BETWEEN THE HIGH COMMISSIONERS
ON THE PART OF THE UNITED STATES OF AMERICA AND THE HIGH
COMMISSIONERS ON THE PART OF GREAT BRITAIN.**

WASHINGTON, *March 23, 1871.*

The high commissioners having met, the protocol of the conference held on the 22d of March was read and confirmed.

The high commissioners then proceeded with the consideration of the matters referred to them.

The conference was adjourned to the 25th of March.

J. C. BANCROFT DAVIS.
TENTERDEN.

**XVI.—PROTOCOL OF CONFERENCE BETWEEN THE HIGH COMMISSIONERS
ON THE PART OF THE UNITED STATES OF AMERICA AND THE HIGH
COMMISSIONERS ON THE PART OF GREAT BRITAIN.**

WASHINGTON, *March 25, 1871.*

The high commissioners having met, the protocol of the conference held on the 23d of March was read and confirmed.

The high commissioners then proceeded with the consideration of the matters referred to them.

The conference was adjourned to the 27th of March.

J. C. BANCROFT DAVIS.
TENTERDEN.

XVII.—PROTOCOL OF CONFERENCE BETWEEN THE HIGH COMMISSIONERS ON THE PART OF THE UNITED STATES OF AMERICA AND THE HIGH COMMISSIONERS ON THE PART OF GREAT BRITAIN.

WASHINGTON, *March 27, 1871.*

The high commissioners having met, the protocol of the conference held on the 25th of March was read and confirmed.

The high commissioners then proceeded with the consideration of the matters referred to them.

The conference was adjourned to the 30th of March.

J. C. BANCROFT DAVIS.
TENTERDEN.

XVIII.—PROTOCOL OF CONFERENCE BETWEEN THE HIGH COMMISSIONERS ON THE PART OF THE UNITED STATES OF AMERICA AND THE HIGH COMMISSIONERS ON THE PART OF GREAT BRITAIN.

WASHINGTON, *March 30, 1871.*

The high commissioners having met, the protocol of the conference held on the 27th of March was read and confirmed.

The high commissioners then proceeded with the consideration of the matters referred to them.

The conference was adjourned to the 3d of April.

J. C. BANCROFT DAVIS.
TENTERDEN.

XIX.—PROTOCOL OF CONFERENCE BETWEEN THE HIGH COMMISSIONERS ON THE PART OF THE UNITED STATES OF AMERICA AND THE HIGH COMMISSIONERS ON THE PART OF GREAT BRITAIN.

WASHINGTON, *April 3, 1871.*

The high commissioners having met, the protocol of the conference held on the 30th of March was read and confirmed.

The high commissioners then proceeded with the consideration of the matters referred to them.

The conference was adjourned to the 5th of April.

J. C. BANCROFT DAVIS.
TENTERDEN.

XX.—PROTOCOL OF CONFERENCE BETWEEN THE HIGH COMMISSIONERS ON THE PART OF THE UNITED STATES OF AMERICA AND THE HIGH COMMISSIONERS ON THE PART OF GREAT BRITAIN.

WASHINGTON, *April 5, 1871.*

The high commissioners having met, the protocol of the conference held on the 3d of April was read and confirmed.

The high commissioners then proceeded with the consideration of the matters referred to them.

The conference was adjourned to the 6th of April.

J. C. BANCROFT DAVIS.
TENTERDEN.

XXI.—PROTOCOL OF CONFERENCE BETWEEN THE HIGH COMMISSIONERS ON THE PART OF THE UNITED STATES OF AMERICA AND THE HIGH COMMISSIONERS ON THE PART OF GREAT BRITAIN.

WASHINGTON, *April 6, 1871.*

The high commissioners having met, the protocol of the conference held on the 5th of April was read and confirmed.

The high commissioners then proceeded with the consideration of the matters referred to them.

The conference was adjourned to the 8th of April.

J. C. BANCROFT DAVIS.
TENTERDEN.

XXII.—PROTOCOL OF CONFERENCE BETWEEN THE HIGH COMMISSIONERS ON THE PART OF THE UNITED STATES OF AMERICA AND THE HIGH COMMISSIONERS ON THE PART OF GREAT BRITAIN.

WASHINGTON, *April 8, 1871.*

The high commissioners having met, the protocol of the conference held on the 6th of April was read and confirmed.

The high commissioners then proceeded with the consideration of the matters referred to them.

The conference was adjourned to the 10th of April.

J. C. BANCROFT DAVIS.
TENTERDEN.

XXIII.—PROTOCOL OF CONFERENCE BETWEEN THE HIGH COMMISSIONERS ON THE PART OF THE UNITED STATES OF AMERICA AND THE HIGH COMMISSIONERS ON THE PART OF GREAT BRITAIN.

WASHINGTON, *April 10, 1871.*

The high commissioners having met, the protocol of the conference held on the 8th of April was read and confirmed.

The high commissioners then proceeded with the consideration of the matters referred to them.

The conference was adjourned to the 12th of April.

J. C. BANCROFT DAVIS.
TENTERDEN.

XXIV.—PROTOCOL OF CONFERENCE BETWEEN THE HIGH COMMISSIONERS ON THE PART OF THE UNITED STATES OF AMERICA AND THE HIGH COMMISSIONERS ON THE PART OF GREAT BRITAIN.

WASHINGTON, *April 12, 1871.*

The high commissioners having met, the protocol of the conference held on the 10th of April was read and confirmed.

The high commissioners then proceeded with the consideration of the matters referred to them.

The conference was adjourned to the 13th of April.

J. C. BANCROFT DAVIS.
TENTERDEN.

XXV.—PROTOCOL OF CONFERENCE BETWEEN THE HIGH COMMISSIONERS ON THE PART OF THE UNITED STATES OF AMERICA AND THE HIGH COMMISSIONERS ON THE PART OF GREAT BRITAIN.

WASHINGTON, *April 13, 1871.*

The high commissioners having met, the protocol of the conference held on the 12th of April was read and confirmed.

The high commissioners then proceeded with the consideration of the matters referred to them.

The conference was adjourned to the 14th of April.

J. C. BANCROFT DAVIS.
TENTERDEN.

XXVI.—PROTOCOL OF CONFERENCE BETWEEN THE HIGH COMMISSIONERS ON THE PART OF THE UNITED STATES OF AMERICA AND THE HIGH COMMISSIONERS ON THE PART OF GREAT BRITAIN.

WASHINGTON, *April 14, 1871.*

The high commissioners having met, the protocol of the conference held on the 13th of April was read and confirmed.

The high commissioners then proceeded with the consideration of the matters referred to them.

The conference was adjourned to the 15th of April.

J. C. BANCROFT DAVIS.
TENTERDEN.

XXVII.—PROTOCOL OF CONFERENCE BETWEEN THE HIGH COMMISSIONERS ON THE PART OF THE UNITED STATES OF AMERICA AND THE HIGH COMMISSIONERS ON THE PART OF GREAT BRITAIN.

WASHINGTON, *April 15, 1871.*

The high commissioners having met, the protocol of the conference held on the 14th of April was read and confirmed.

The high commissioners then proceeded with the consideration of the matters referred to them.

The conference was adjourned to the 17th of April.

J. C. BANCROFT DAVIS.
TENTERDEN.

XXVIII.—PROTOCOL OF CONFERENCE BETWEEN THE HIGH COMMISSIONERS ON THE PART OF THE UNITED STATES OF AMERICA AND THE HIGH COMMISSIONERS ON THE PART OF GREAT BRITAIN.

WASHINGTON, *April 17, 1871.*

The high commissioners having met, the protocol of the conference held on the 15th of April was read and confirmed.

The high commissioners then proceeded with the consideration of the matters referred to them.

The conference was adjourned to the 18th of April.

J. C. BANCROFT DAVIS.
TENTERDEN.

XXIX.—PROTOCOL OF CONFERENCE BETWEEN THE HIGH COMMISSIONERS ON THE PART OF THE UNITED STATES OF AMERICA AND THE HIGH COMMISSIONERS ON THE PART OF GREAT BRITAIN.

WASHINGTON, *April 18, 1871.*

The high commissioners having met, the protocol of the conference held on the 17th of April was read and confirmed.

The high commissioners then proceeded with the consideration of the matters referred to them.

The conference was adjourned to the 19th of April.

J. C. BANCROFT DAVIS.
TENTERDEN.

XXX.—PROTOCOL OF CONFERENCE BETWEEN THE HIGH COMMISSIONERS ON THE PART OF THE UNITED STATES OF AMERICA AND THE HIGH COMMISSIONERS ON THE PART OF GREAT BRITAIN.

WASHINGTON, *April 19, 1871.*

The high commissioners having met, the protocol of the conference held on the 18th of April was read and confirmed.

The high commissioners then proceeded with the consideration of the matters referred to them.

The conference was adjourned to the 22d of April.

J. C. BANCROFT DAVIS.
TENTERDEN.

XXXI.—PROTOCOL OF CONFERENCE BETWEEN THE HIGH COMMISSIONERS ON THE PART OF THE UNITED STATES OF AMERICA AND THE HIGH COMMISSIONERS ON THE PART OF GREAT BRITAIN.

WASHINGTON, *April 22, 1871.*

The high commissioners having met, the protocol of the conference held on the 19th of April was read and confirmed.

The high commissioners then proceeded with the consideration of the matters referred to them.

The conference was adjourned to the 24th of April.

J. C. BANCROFT DAVIS.
TENTERDEN.

XXXII.—PROTOCOL OF CONFERENCE BETWEEN THE HIGH COMMISSIONERS ON THE PART OF THE UNITED STATES OF AMERICA AND THE HIGH COMMISSIONERS ON THE PART OF GREAT BRITAIN.

WASHINGTON, *April 24, 1871.*

The high commissioners having met, the protocol of the conference held on the 22d of April was read and confirmed.

The high commissioners then proceeded with the consideration of the matters referred to them.

The conference was adjourned to the 25th of April.

J. C. BANCROFT DAVIS.
TENTERDEN.

XXXIII.—PROTOCOL OF CONFERENCE BETWEEN THE HIGH COMMISSIONERS ON THE PART OF THE UNITED STATES OF AMERICA AND THE HIGH COMMISSIONERS ON THE PART OF GREAT BRITAIN.

WASHINGTON, *April 25, 1871.*

The high commissioners having met, the protocol of the conference held on the 24th of April was read and confirmed.

The high commissioners then proceeded with the consideration of the matters referred to them.

The conference was adjourned to the 26th of April.

J. C. BANCROFT DAVIS.
TENTERDEN.

XXXIV.—PROTOCOL OF CONFERENCE BETWEEN THE HIGH COMMISSIONERS ON THE PART OF THE UNITED STATES OF AMERICA AND THE HIGH COMMISSIONERS ON THE PART OF GREAT BRITAIN.

WASHINGTON, *April 26, 1871.*

The high commissioners having met, the protocol of the conference held on the 25th of April was read and confirmed.

The high commissioners then proceeded with the consideration of the matters referred to them.

The conference was adjourned to the 3d of May.

J. C. BANCROFT DAVIS.
TENTERDEN.

XXXV.—PROTOCOL OF CONFERENCE BETWEEN THE HIGH COMMISSIONERS ON THE PART OF THE UNITED STATES OF AMERICA AND THE HIGH COMMISSIONERS ON THE PART OF GREAT BRITAIN.

WASHINGTON, *May 3, 1871.*

The high commissioners having met, the protocol of the conference held on the 25th of April was read and confirmed.

The high commissioners then proceeded with the consideration of the matters referred to them.

The American commissioners produced the following further full power, under the seal of the United States, authorizing them to conclude and sign a treaty:

ULYSSES S. GRANT, *President of the United States of America, to all to whom these presents shall come, greeting:*

Know ye that whereas, by my power, bearing date the 10th day of February last, Hamilton Fish, Secretary of State, Robert C. Schenck, envoy extraordinary and minister plenipotentiary to Great Britain, Samuel Nelson, an associate justice of the Supreme Court of the United States, Ebenezer R. Hoar, of Massachusetts, and George H. Williams, of Oregon, were authorized to meet the commissioners appointed, or to be appointed, on behalf of Her Britannic Majesty, and with them to treat and discuss the mode of settlement of the different questions which should come before them;

And whereas that meeting and discussion have taken place, and the said mode of settlement has been agreed upon:

Now, therefore, I, Ulysses S. Grant, President of the United States, do hereby appoint the said Hamilton Fish, Robert C. Schenck, Samuel Nelson, Ebenezer R. Hoar, and George H. Williams, jointly and severally, plenipotentiaries for and in behalf of the United States, and do authorize them, and any or either of them, to conclude and sign

any treaty or treaties touching the premises, for the final ratification of the President of the United States, by and with the advice and consent of the Senate, if such advice and consent be given.

In witness whereof I have caused the seal of the United States to be hereunto affixed.

Given under my hand at the city of Washington, the second day of May, in the year of our Lord one thousand eight hundred and seventy-one, and of the Independence of the United States of America the ninety-fifth.

[SEAL.]

By the President:

HAMILTON FISH,
Secretary of State.

U. S. GRANT.

This full power was examined by the British commissioners and found satisfactory.

The joint high commissioners determined that they would embody in a protocol a statement containing an account of the negotiations upon the various subjects included in the treaty, and they instructed the joint protocolists to prepare such an account in the order in which the subjects are to stand in the treaty.

The conference was adjourned to the 4th of May.

J. C. BANCROFT DAVIS.
TENTERDEN.

XXXVI.—PROTOCOL OF CONFERENCE BETWEEN THE HIGH COMMISSIONERS ON THE PART OF THE UNITED STATES OF AMERICA AND THE HIGH COMMISSIONERS ON THE PART OF GREAT BRITAIN.

WASHINGTON, *May 4, 1871.*

The high commissioners having met, the protocol of the conference held on the 3d of May was read and confirmed.

The high commissioners then proceeded with the consideration of the matters referred to them.

The statement prepared by the joint protocolists, in accordance with the request of the joint high commissioners at the last conference, was then read as follows:

STATEMENTS.

ARTICLES I TO XL.

At the conference held on the 8th of March the American commissioners stated that the people and Government of the United States felt that they had sustained a great wrong, and that great injuries and losses were inflicted upon their commerce and their material interests by the course and conduct of Great Britain during the recent rebellion in the United States; that what had occurred in Great Britain and her colonies during that period had given rise to feelings in the United States which the people of the United States did not desire to cherish toward Great Britain; that the history of the Alabama, and other cruisers, which had been fitted out, or armed, or equipped, or which had received augmentation of force in Great Britain, or in her colonies, and of the operations of those vessels, showed extensive direct losses in the capture and destruction of a large number of vessels, with their cargoes, and in the heavy national expenditures in the pursuit of the cruisers, and indirect injury in the transfer of a large part of the American commercial marine to the British flag, in the enhanced payments of insurance, in the prolongation of the war, and in the addition of a large sum to the cost of the war and the suppression of the rebellion, and also showed that Great Britain, by reason of failure in the proper observance of her duties as a neutral, had become justly liable for the acts of those cruisers and of their tenders; that the claims for the loss and destruction of private property which had thus far been presented amounted to about fourteen millions of dollars, without interest, which amount was liable to be greatly increased by claims which had not been presented; that the cost to which the Government had been put in the pursuit of cruisers could easily be ascertained by certificates of Government accounting officers; that in the hope of an

amicable settlement, no estimate was made of the indirect losses, without prejudice, however, to the right to indemnification on their account in the event of no such settlement being made.

The American commissioners further stated that they hoped that the British commissioners would be able to place upon record an expression of regret by Her Majesty's government for the depredations committed by the vessels whose acts were now under discussion. They also proposed that the joint high commission should agree upon a sum which should be paid by Great Britain to the United States in satisfaction of all the claims and the interest thereon.

The British commissioners replied that Her Majesty's government could not admit that Great Britain had failed to discharge toward the United States the duties imposed on her by the rules of international law, or that she was justly liable to make good to the United States the losses occasioned by the acts of the cruisers to which the American commissioners had referred. They reminded the American commissioners that several vessels, suspected of being designed to cruise against the United States, including two iron-clads, had been arrested or detained by the British government, and that that government had in some instances not confined itself to the discharge of international obligations, however widely construed, as, for instance, when it acquired, at a great cost to the country, the control of the Anglo-Chinese Flotilla, which, it was apprehended, might be used against the United States.

They added that although Great Britain had, from the beginning, disavowed any responsibility for the acts of the *Alabama*, and the other vessels, she had already shown her willingness, for the sake of the maintenance of friendly relations with the United States, to adopt the principle of arbitration, provided that a fitting arbitrator could be found, and that an agreement could be come to as to the points to which arbitration should apply. They would, therefore, abstain from replying in detail to the statement of the American commissioners, in the hope that the necessity for entering upon a lengthened controversy might be obviated by the adoption of so fair a mode of settlement as that which they were instructed to propose; and they had now to repeat, on behalf of their government, the offer of arbitration.

The American commissioners expressed their regret at this decision of the British commissioners, and said further that they could not consent to submit the question of the liability of Her Majesty's government to arbitration unless the principles which should govern the arbitrator in the consideration of the facts could be first agreed upon.

The British commissioners replied that they had no authority to agree to a submission of these claims to an arbitrator with instructions as to the principles which should govern him in the consideration of them. They said that they should be willing to consider what principles should be adopted for observance in future; but that they were of opinion that the best mode of conducting an arbitration was to submit the facts to the arbitrator, and leave him free to decide upon them after hearing such arguments as might be necessary.

The American commissioners replied that they were willing to consider what principles should be laid down for observance in similar cases in future, with the understanding that any principles that should be agreed upon should be held to be applicable to the facts in respect to the *Alabama* claims.

The British commissioners replied that they could not admit that there had been any violation of existing principles of international law, and that their instructions did not authorize them to accede to a proposal for laying down rules for the guidance of the arbitrator; but that they would make known to their government the views of the American commissioners on the subject.

At the respective conferences on March 9, March 10, March 13, and March 14, the joint high commission considered the form of the declaration of principles or rules which the American commissioners desired to see adopted for the instruction of the arbitrator, and laid down for observance by the two governments in future.

At the close of the conference of the 14th of March the British commissioners reserved several questions for the consideration of their government.

At the conference on the 5th of April the British commissioners stated that they were instructed by Her Majesty's government to declare that Her Majesty's government could not assent to the proposed rules as a statement of principles of international law which were in force at the time when the *Alabama* claims arose, but that Her Majesty's government, in order to evince its desire of strengthening the friendly relations between the two countries, and of making satisfactory provision for the future, agreed that in deciding the questions between the two countries arising out of those claims, the arbitrator should assume that Her Majesty's government had undertaken to act upon the principles set forth in the rules which the American commissioners had proposed, viz:

That a neutral government is bound, first, to use due diligence to prevent the fitting out, arming, or equipping, within its jurisdiction, of any vessel which it has reasonable ground to believe is intended to cruise or carry on war against a power with which it

is at peace; and also to use like diligence to prevent the departure from its jurisdiction of any vessel intended to cruise or carry on war as above, such vessel having been specially adapted, in whole or in part, within such jurisdiction, to warlike use.

Secondly. Not to permit or suffer either belligerent to make use of its ports or waters as the base of naval operations against the other, or for the purpose of the renewal or augmentation of military supplies or arms, or the recruitment of men.

Thirdly. To exercise due diligence in its own ports or waters, and as to all persons within its jurisdiction, to prevent any violation of the foregoing obligations and duties.

It being a condition of this undertaking, that these obligations should in future be held to be binding internationally between the two countries.

It was also settled that in deciding the matters submitted to him the arbitrator should be governed by the foregoing rules, which had been agreed upon as rules to be taken as applicable to the case, and by such principles of international law, not inconsistent therewith, as the arbitrator should determine to have been applicable to the case.

The Joint High Commission then proceeded to consider the form of submission and the manner of constituting a tribunal of arbitration.

At the conferences on the 6th, 8th, 9th, 10th, and 12th of April the Joint High Commission considered and discussed the form of submission, the manner of the award, and the mode of selecting the arbitrators.

The American commissioners, referring to the hope which they had expressed on the 8th of March, inquired whether the British commissioners were prepared to place upon record an expression of regret by Her Majesty's government for the depredations committed by the vessels whose acts were now under discussion; and the British commissioners replied that they were authorized to express, in a friendly spirit, the regret felt by Her Majesty's government for the escape, under whatever circumstances, of the *Alabama* and other vessels from British ports, and for the depredations committed by those vessels.

The American commissioners accepted this expression of regret as very satisfactory to them and as a token of kindness, and said that they felt sure it would be so received by the Government and people of the United States.

In the conference on the 13th of April the treaty articles I to XI were agreed to.

ARTICLES XII TO XVII.

At the conference on the 4th of March it was agreed to consider the subjects referred to the joint high commission by the respective governments in the order in which they appeared in the correspondence between Sir Edward Thornton and Mr. Fish, and to defer the consideration of the adjustment of "all other claims, both of British subjects and citizens of the United States, arising out of acts committed during the recent civil war in this country," as described by Sir Edward Thornton in his letter of February 1, until the subjects referred to in the previous letters should have been disposed of.

The American commissioners said that they supposed that they were right in their opinion that British laws prohibit British subjects from owning slaves; they therefore inquired whether any claim for slaves, or for alleged property or interest in slaves, can or will be presented by the British government, or in behalf of any British subject, under the treaty now being negotiated, if there be in the treaty no express words excluding such claims.

The British commissioners replied that by the law of England British subjects had long been prohibited from purchasing or dealing in slaves, not only within the dominions of the British crown but in any foreign country; and that they had no hesitation in saying that no claim on behalf of any British subject, for slaves or for any property or interest in slaves, would be presented by the British government.

Referring to the paragraph in Sir Edward Thornton's letter of January 26, relating to "the mode of settling the different questions which have arisen out of the fisheries, as well as all those which affect the relations of the United States towards Her Majesty's possessions in North America," the British commissioners proposed that the joint high commission should consider the claims for injuries which the people of Canada had suffered from what were known as the Fenian raids.

The American commissioners objected to this, and it was agreed that the subject might be brought up again by the British commissioners in connection with the subjects referred to by Sir Edward Thornton in his letter of February 1.

At the conference on the 14th of April the joint high commission took into consideration the subjects mentioned by Sir Edward Thornton in that letter.

The British commissioners proposed that a commission for the consideration of these claims should be appointed, and that the convention of 1853 should be followed as a precedent. This was agreed to, except that it was settled that there should be a third commissioner instead of an umpire.

At the conference on the 15th of April, the treaty articles XII to XVII were agreed to.

At the conference on the 26th of April the British commissioners again brought before the joint high commission the claims of the people of Canada for injuries suffered from the Fenian raids. They said that they were instructed to present these claims and to state that they were regarded by Her Majesty's government as coming within the class of subjects indicated by Sir Edward Thornton in his letter of January 26, as subjects for the consideration of the joint high commission.

The American commissioners replied that they were instructed to say that the Government of the United States did not regard these claims as coming within the class of subjects indicated in that letter as subjects for the consideration of the joint high commission, and that they were without any authority from their Government to consider them. They therefore declined to do so.

The British commissioners stated that, as the subject was understood not to be within the scope of the instructions of the American commissioners, they must refer to their government for further instructions upon it.

At the conference on the 3d of May the British commissioners stated that they were instructed by their government to express their regret that the American commissioners were without authority to deal with the question of the Fenian raids, and they inquired whether that was still the case.

The American commissioners replied that they could see no reason to vary the reply formerly given to this proposal; that in their view the subject was not embraced in the scope of the correspondence between Sir Edward Thornton and Mr. Fish under either of the letters of the former; and that they did not feel justified in entering upon the consideration of any class of claims not contemplated at the time of the creation of the present commission, and that the claims now referred to did not commend themselves to their favor.

The British high commissioners said that under these circumstances they would not urge further that the settlement of these claims should be included in the present treaty, and that they had the less difficulty in doing so, as a portion of the claims were of a constructive and inferential character.

ARTICLES XVIII to XXV.

At the conference on the 6th of March the British commissioners stated that they were prepared to discuss the question of the fisheries, either in detail or generally, so as either to enter into an examination of the respective rights of the two countries under the treaty of 1818 and the general law of nations, or to approach at once the settlement of the question on a comprehensive basis.

The American commissioners said that with the view of avoiding the discussion of matters which subsequent negotiation might render it unnecessary to enter into, they thought it would be preferable to adopt the latter course, and inquired what, in that case, would be the basis which the British commissioners desired to propose.

The British commissioners replied that they considered that the reciprocity treaty of June 5, 1854, should be restored in principle.

The American commissioners declined to assent to a renewal of the former reciprocity treaty.

The British commissioners then suggested that, if any considerable modification were made in the tariff arrangements of that treaty, the coasting trade of the United States and of Her Britannic Majesty's possessions in North America should be reciprocally thrown open, and that the navigation of the river St. Lawrence and of the Canadian canals should be also thrown open to the citizens of the United States on terms of equality with British subjects.

The American commissioners declined this proposal, and objected to a negotiation on the basis of the reciprocity treaty. They said that that treaty had proved unsatisfactory to the people of the United States, and consequently had been terminated by notice from the Government of the United States, in pursuance of its provisions. Its renewal was not in their interest, and would not be in accordance with the sentiments of their people. They further said that they were not at liberty to treat of the opening of the coasting trade of the United States to the subjects of Her Majesty residing in her possessions in North America. It was agreed that the questions relating to the navigation of the river St. Lawrence, and of the Canadian canals, and to other commercial questions affecting Canada, should be treated by themselves.

The subject of the fisheries was further discussed at the conferences on the 7th, 20th, 22d, and 25th of March. The American commissioners stated that if the value of the inshore fisheries could be ascertained, the United States might prefer to purchase, for a sum of money, the right to enjoy, in perpetuity, the use of these inshore fisheries in common with British fishermen, and mentioned one million dollars as the sum they were prepared to offer. The British commissioners replied that this offer was, they thought, wholly inadequate, and that no arrangement would be acceptable of which the admission into the United States free of duty of fish, the produce of the British

fisheries, did not form a part, adding that any arrangement for the acquisition by purchase of the inshore fisheries in perpetuity was open to grave objection.

The American commissioners inquired whether it would be necessary to refer any arrangement for purchase to the colonial or provincial Parliaments.

The British commissioners explained that the fisheries within the limits of maritime jurisdiction were the property of the several British colonies, and that it would be necessary to refer any arrangement which might affect colonial property or rights to the colonial or provincial Parliaments; and that legislation would also be required on the part of the imperial Parliament. During these discussions the British commissioners contended that these inshore fisheries were of great value, and that the most satisfactory arrangement for their use would be a reciprocal tariff arrangement, and reciprocity in the coasting trade; and the American commissioners replied that their value was overestimated; that the United States desired to secure their enjoyment, not for their commercial or intrinsic value, but for the purpose of removing a source of irritation; and that they could hold out no hope that the Congress of the United States would give its assent to such a tariff arrangement as was proposed, or to any extended plan of reciprocal free admission of the products of the two countries; but that, inasmuch as one branch of Congress had recently, more than once, expressed itself in favor of the abolition of duties on coal and salt, they would propose that coal, salt, and fish be reciprocally admitted free; and that, inasmuch as Congress had removed the duty from a portion of the lumber heretofore subject to duty, and as the tendency of legislation in the United States was toward the reduction of taxation and of duties in proportion to the reduction of the public debt and expenses, they would further propose that lumber be admitted free from duty from and after the first of July, 1874, subject to the approval of Congress, which was necessary on all questions affecting import duties.

The British commissioners, at the conference on the 17th of April, stated that they had referred this offer to their government, and were instructed to inform the American commissioners that it was regarded as inadequate, and that Her Majesty's government considered that free lumber should be granted at once, and that the proposed tariff concessions should be supplemented by a money payment.

The American commissioners then stated that they withdrew the proposal which they had previously made of the reciprocal free admission of coal, salt, and fish, and of lumber after July 1, 1874; that that proposal had been made entirely in the interest of a peaceful settlement, and for the purpose of removing a source of irritation and of anxiety; that its value had been beyond the commercial or intrinsic value of the rights to have been acquired in return; and that they could not consent to an arrangement on the basis now proposed by the British commissioners; and they renewed their proposal to pay a money equivalent for the use of the inshore fisheries. They further proposed that, in case the two governments should not be able to agree upon the sum to be paid as such an equivalent, the matter should be referred to an impartial commission for determination.

The British commissioners replied that this proposal was one on which they had no instructions, and that it would not be possible for them to come to any arrangement except one for a term of years and involving the concession of free fish and fish-oil by the American commissioners, but that if free fish and fish-oil were conceded they would inquire of their government whether they were prepared to assent to a reference to arbitration as to money payment.

The American commissioners replied that they were willing, subject to the action of Congress, to concede free fish and fish-oil as an equivalent for the use of the inshore fisheries, and to make the arrangement for a term of years; that they were of opinion that free fish and fish-oil would be more than an equivalent for those fisheries, but that they were also willing to agree to a reference to determine that question and the amount of any money payment that might be found necessary to complete an equivalent, it being understood that legislation would be needed before any payment could be made.

The subject was further discussed in the conferences of April 18 and 19, and the British commissioners having referred the last proposal to their government and received instructions to accept it, the treaty articles XVIII to XXV were agreed to at the conference on the 22d of April.

ARTICLES XXVII TO XXXIII.

At the conference on the 6th of March the British commissioners propose that the reciprocity treaty of June 5, 1854, should be restored in principle, and that, if any considerable modifications in the tariff arrangements in force under it were made, the coasting trade of the United States and of Her Britannic Majesty's possessions in North America should be reciprocally thrown open, and that the navigation of the river St. Lawrence and of the Canadian canals should be thrown open to the citizens of the United States on terms of equality with British subjects.

The American commissioners declined this proposal, and in the subsequent negotiations the question of the fisheries was treated by itself.

At the conference on the 17th of March the joint high commission considered the subject of the American improvement of the navigation of the St. Clair Flats.

At the conference on the 18th of March the questions of the navigation of the river St. Lawrence and the canals and the other subjects connected therewith were taken up.

The American commissioners proposed to take into consideration the question of transit of goods in bond through Canada and the United States, which was agreed to.

The British commissioners proposed to take into consideration the question of opening the coasting trade of the lakes reciprocally to each party, which was declined.

On the proposal of the British commissioners it was agreed to take the question of transshipment into consideration.

The British commissioners proposed to take into consideration the reciprocal registration of vessels, as between the Dominion of Canada and the United States, which was declined.

At the conference on the 23d of March the transshipment question was discussed and postponed for further information, on the motion of the American commissioners.

The transit question was discussed, and it was agreed that any settlement that might be made should include a reciprocal arrangement in that respect for the period for which the fishery articles should be in force.

The question of the navigation of the river St. Lawrence and the canals was taken up.

The British commissioners stated that they regarded the concession of the navigation of Lake Michigan as an equivalent for the concession of the navigation of the river St. Lawrence.

As to the canals, they stated that the concession of the privilege to navigate them in their present condition, on terms of equality with British subjects, was a much greater concession than the corresponding use of the canals offered by the United States.

They further said that the enlargement of the canals would involve the expenditure of a large amount of money, and they asked what equivalent the American commissioners proposed to give for the surrender of the right to control the tolls for the use of the canals, either in their present state or after enlargement.

The American commissioners replied, that unless the Welland Canal should be enlarged so as to accommodate the present course of trade, they should not be disposed to make any concessions; that in their opinion the citizens of the United States could now justly claim to navigate the river St. Lawrence in its natural state, ascending and descending, from the forty-fifth parallel of north latitude, where it ceases to form the boundary between the two countries, from, to, and into the sea; and they could not concede that the navigation of Lake Michigan should be given or taken as an equivalent for that right; and they thought that the concession of the navigation of Lake Michigan and of the canals offered by them was more than an equivalent for the concessions as to the Canadian canals which were asked. They proposed, in connection with a reciprocal arrangement as to transit and transshipment, that Canada should agree to enlarge the Welland and St. Lawrence Canals, to make no discriminating tolls, and to limit the tolls to rates sufficient to maintain the canals, pay a reasonable interest on the cost of construction and enlargement, and raise a sinking fund for the repaying within a reasonable time the cost of enlargement; and that the navigation of the river St. Lawrence, the Canadian canals, the canals offered by the United States, and Lake Michigan should be enjoyed reciprocally by citizens of the United States and by British subjects. This proposal was declined by the British commissioners, who repeated that they did not regard the equivalent offered by the United States as at all commensurate with the concessions asked from Great Britain.

At the conference on the 27th of March the proposed enlargement of the Canadian canals was further discussed. It was stated on the part of the British commissioners that the Canadian government were now considering the expediency of enlarging the capacity of the canals on the river St. Lawrence, and had already provided for the enlargement of the Welland Canal, which would be undertaken without delay.

The subject of the export duty in New Brunswick on American lumber floated down the river St. John was proposed for consideration by the American commissioners.

At the conference on the 22d of April the British commissioners proposed that the navigation of Lake Michigan should be given in exchange for the navigation of the river St. Lawrence; and that Her Majesty's government should agree to urge upon the Dominion of Canada to give to the citizens of the United States the use of the Canadian canals on terms of equality with British subjects; and that the Government of the United States should agree to urge upon the several States to give to British subjects the use of the several State canals on terms of equality with citizens of the United States. They also proposed, as part of the arrangement, a reciprocal agreement as to transit and transshipment, and that the government of Great Britain should urge upon New Brunswick not to impose export duties on the lumber floated down the river St. John for shipment to the United States.

The American commissioners repeated their views as to the navigation of the river St. Lawrence in its natural state.

The British commissioners replied that they could not admit the claims of American citizens to navigate the river St. Lawrence as of right; but that the British government had no desire to exclude them from it. They, however, pointed out that there were certain rivers running through Alaska which should on like grounds be declared free and open to British subjects, in case the river St. Lawrence should be declared free.

The American commissioners replied that they were prepared to consider that question. They also assented to the arrangement as to the canals, which was proposed by the British commissioners, limiting it, as regarded American canals, to the canals connected with the navigation of the lakes or rivers traversed by or contiguous to the boundary line between the British and American possessions. They likewise agreed to give the right of navigating Lake Michigan for a term of years. They desired, and it was agreed, that the transshipment arrangement should be made dependent upon the non-existence of discriminating tolls or regulations on the Canadian canals, and also upon the abolition of the New Brunswick export duty on American lumber intended for the United States. It was also agreed that the right of carrying should be made dependent upon the non-imposition of export duties on either side on the goods of the other party passing in transit.

The discussion of these subjects was further continued at the conferences of the 24th, 25th, and 26th of April, and the treaty articles XXVI to XXXIII were agreed to at the conference on the 3d of May.

In the course of these discussions, the British commissioners called attention to the question of the survey of the boundary line along the forty-ninth parallel, which still remained unexecuted from the Lake of the Woods to the Rocky Mountains, and to which reference had been made in the President's message.

The American commissioners stated that the survey was a matter for administrative action, and did not require to be dealt with by a treaty provision. The United States Government would be prepared to agree with the British government for the appointment of a boundary survey commission in the same manner as has been done in regard to the remainder of the boundary along the forty-ninth parallel as soon as the legislative appropriations and other necessary arrangements could be made.

ARTICLES XXXIV TO XLII.

At the conference on the 15th of March the British commissioners stated that it was proposed that day to take up the northwest water boundary question; that the difference was one of long standing, which had more than once been the subject of negotiations between the two governments, and that the negotiators had, in January, 1869, agreed upon a treaty. They then proposed that an arbitration of this question should be made upon the basis of the provisions of that treaty.

The American commissioners replied, that though no formal vote was actually taken upon it, it was well understood that that treaty had not been favorably regarded by the Senate. They declined the proposal of the British commissioners, and expressed their wish that an effort should be made to settle the question in the joint high commission.

The British commissioners assented to this, and presented the reasons which induced them to regard the Rosario Straits as the channel contemplated by the treaty of June 15, 1846.

The American commissioners replied, and presented the reasons which induced them to regard the Haro Channel as the channel contemplated by that treaty. They also produced, in support of their views, some original correspondence of Mr. Everett with his government, which had not been alluded to in previous discussions of the question.

The British commissioners replied that they saw in that correspondence no reason to induce them to change the opinion which they had previously expressed. They then asked whether the American commissioners had any further proposal to make.

The American commissioners replied that, in view of the position taken by the British commissioners, it appeared that the treaty of June 15, 1846, might have been made under a mutual misunderstanding, and would not have been made had each party understood at that time the construction which the other party puts upon the language whose interpretation is in dispute; they therefore proposed to abrogate the whole of that part of the treaty, and rearrange the boundary line which was in dispute before that treaty was concluded.

The British commissioners replied, that the proposal to abrogate a treaty was one of a serious character, and that they had no instructions which would enable them to entertain it; and, at the conference on the 20th of March, the British commissioners declined the proposal.

At the conference on the 19th of April, the British commissioners proposed to the American commissioners to adopt the Middle Channel (generally known as the Douglas Channel) as the channel through which the boundary line should be run, with the

understanding that all the channels through the Archipelago should be free and common to both parties.

The American commissioners declined to entertain that proposal. They proposed that the joint high commission should recognize the Haro Channel as the channel intended by the treaty of June 15, 1846, with a mutual agreement that no fortifications should be erected by either party to obstruct or command it, and with proper provisions as to any existing proprietary rights of British subjects in the island of San Juan.

The British commissioners declined this proposal, and stated that, being convinced of the justice of their view of the treaty, they could not abandon it except after a fair decision by an impartial arbitrator. They therefore renewed their proposal for a reference to arbitration, and hoped that it would be seriously considered.

The American commissioners replied, that they had hoped that their last proposal would be accepted. As it had been declined, they would, should the other questions between the two governments be satisfactorily adjusted, agree to a reference to arbitration to determine whether the line should run through the Haro Channel or through the Rosario Straits, upon the condition that either government should have the right to include in the evidence to be considered by the arbitrator such documents, official correspondence, and other official or public statements, bearing on the subject of the reference, as they may consider necessary to the support of their respective cases. This condition was agreed to.

The British commissioners proposed that the arbitrator should have the right to draw the boundary through an intermediate channel. The American commissioners declined this proposal, stating that they desired a decision, not a compromise.

The British commissioners proposed that it should be declared to be the proper construction of the treaty of 1846 that all the channels were to be open to navigation by both parties. The American commissioners stated that they did not so construe the treaty of 1846, and therefore could not assent to such a declaration.

The discussion of this subject was continued during this conference, and in the conference of the 22d of April the Treaty Articles XXXIV to XLII were agreed to.

The joint high commissioners approved this statement, and directed it to be entered in the protocol.

The conference was adjourned to the 6th of May.

J. C. BANCROFT DAVIS.
TENTERDEN.

XXXVII.—PROTOCOL OF CONFERENCE BETWEEN THE HIGH COMMISSIONERS ON THE PART OF THE UNITED STATES OF AMERICA AND THE HIGH COMMISSIONERS ON THE PART OF GREAT BRITAIN.

WASHINGTON, *May 6, 1871.*

The high commissioners having met, the protocol of the conference held on the 4th of May was read and confirmed.

Lord de Grey said, that as the joint high commission would not meet again after to day, except for the purpose of signing the treaty, he desired on behalf of himself and his colleagues to express their high appreciation of the manner in which Mr. Fish and his American colleagues had, on their side, conducted the negotiations. It had been most gratifying to the British commissioners to be associated with colleagues who were animated with the same sincere desire as themselves to bring about a settlement, equally honorable and just to both countries, of the various questions of which it had been their duty to treat, and the British commissioners would always retain a grateful recollection of the fair and friendly spirit which the American commissioners had displayed.

Mr. Fish, in behalf of the American commissioners, said that they were gratefully sensible of the friendly words expressed by Lord de Grey, and of the kind spirit which had prompted them. From the date of the first conference the American commissioners had been impressed by the earnestness of desire manifested by the British commissioners to reach a settlement worthy of the two powers who had committed to this

joint high commission the treatment of various questions of peculiar interest, complexity, and delicacy. His colleagues and he could never cease to appreciate the generous spirit and the open and friendly manner in which the British commissioners had met and discussed the several questions that had led to the conclusion of a treaty which it was hoped would receive the approval of the people of both countries, and would prove the foundation of a cordial and friendly understanding between them for all time to come.

Mr. Fish further said that he was sure that every member of the joint high commission would desire to record his appreciation of the ability, the zeal, and the unceasing labor which the joint protocolists had exhibited in the discharge of their arduous and responsible duties, and that he knew that he only gave expression to the feelings of the commissioners in saying that Lord Tenterden and Mr. Bancroft Davis were entitled to, and were requested to accept, the thanks of the joint high commission for their valuable services, and the great assistance which they had rendered with unvarying obligingness to the commission.

Lord de Grey replied, on behalf of the British commissioners, that he and his colleagues most cordially concurred in the proposal made by Mr. Fish that the thanks of the joint high commission should be tendered to Mr. Bancroft Davis and Lord Tenterden for their valuable services as joint protocolists. The British commissioners were also quite as sensitive as their American colleagues of the great advantage which the commission had derived from the assistance which those gentlemen had given them in the conduct of the important negotiations in which they had been engaged.

Monday, the 8th of May, was appointed for the signatures of the treaty.

J. C. BANCROFT DAVIS.
TENTERDEN.

No. 236.

Treaty between the United States and Great Britain.—Claims, fisheries, navigation of the St. Lawrence, &c., American lumber on the river St. John, boundary.—Concluded May 8, 1871; ratifications exchanged June 17, 1871; proclaimed July 4, 1871.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a treaty, between the United States of America and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, concerning the settlement of all causes of difference between the two countries, was concluded and signed at Washington by the high commissioners and plenipotentiaries of the respective governments on the eighth day of May last; which treaty is, word for word, as follows:

The United States of America and Her Britannic Majesty, being desirous to provide for an amicable settlement of all causes of difference between the two countries, have for that purpose appointed their respective plenipotentiaries, that is to say: the President of the United States has appointed, on the part of the United States, as commission-

ers in a joint high commission and plenipotentiaries, Hamilton Fish, Secretary of State; Robert Cumming Schenck, Envoy Extraordinary and Minister Plenipotentiary to Great Britain; Samuel Nelson, an Associate Justice of the Supreme Court of the United States; Ebenezer Rockwood Hoar, of Massachusetts; and George Henry Williams, of Oregon; and her Britannic Majesty, on her part, has appointed as her high commissioners and plenipotentiaries, the Right Honorable George Frederick Samuel, Earl de Grey and Earl of Ripon, Viscount Goderich, Baron Grantham, a Baronet, a Peer of the United Kingdom, Lord President of Her Majesty's Most Honorable Privy Council, Knight of the Most Noble Order of the Garter, &c., &c., the Right Honorable Sir Stafford Henry Northcote, Baronet, one of Her Majesty's Most Honorable Privy Council, a Member of Parliament, a Companion of the Most Honorable Order of the Bath, &c., &c., Sir Edward Thornton, Knight Commander of the Most Honorable Order of the Bath, Her Majesty's Envoy Extraordinary and Minister Plenipotentiary to the United States of America; Sir John Alexander Macdonald, Knight Commander of the Most Honorable Order of the Bath, a member of Her Majesty's Privy Council for Canada, and Minister of Justice and Attorney General of Her Majesty's Dominion of Canada; and Montague Bernard, Esquire, Chichele Professor of International Law in the University of Oxford.

And the said plenipotentiaries, after having exchanged their full powers, which were found to be in due and proper form, have agreed to and concluded the following articles:

ARTICLE I.

Whereas differences have arisen between the Government of the United States and the government of Her Britannic Majesty, and still exist, growing out of the acts committed by the several vessels which have given rise to the claims generically known as the "Alabama claims:"

And whereas Her Britannic Majesty has authorized her high commissioners and plenipotentiaries to express, in a friendly spirit, the regret felt by Her Majesty's government for the escape, under whatever circumstances, of the Alabama and other vessels from British ports, and for the depredations committed by those vessels:

Now, in order to remove and adjust all complaints and claims on the part of the United States, and to provide for the speedy settlement of such claims, which are not admitted by Her Britannic Majesty's government, the high contracting parties agree that all the said claims, growing out of acts committed by the aforesaid vessels, and generically known as the "Alabama claims," shall be referred to a tribunal of arbitration to be composed of five arbitrators, to be appointed in the following manner, that is to say: one shall be named by the President of the United States; one shall be named by Her Britannic Majesty; His Majesty the King of Italy shall be requested to name one; the President of the Swiss Confederation shall be requested to name one; and His Majesty the Emperor of Brazil shall be requested to name one.

In case of the death, absence, or incapacity to serve of any or either of the said arbitrators, or in the event of either of the said arbitrators omitting or declining or ceasing to act as such, the President of the United States, or Her Britannic Majesty, or His Majesty the King of Italy, or the President of the Swiss Confederation, or His Majesty the Emperor of Brazil, as the case may be, may forthwith name another

person to act as arbitrator in the place and stead of the arbitrator originally named by such head of a state.

And in the event of the refusal or omission for two months after receipt of the request from either of the high contracting parties of His Majesty the King of Italy, or the President of the Swiss Confederation, or His Majesty the Emperor of Brazil, to name an arbitrator either to fill the original appointment or in the place of one who may have died, be absent, or incapacitated, or who may omit, decline, or from any cause cease to act as such arbitrator, His Majesty the King of Sweden and Norway shall be requested to name one or more persons, as the case may be, to act as such arbitrator or arbitrators.

ARTICLE II.

The arbitrators shall meet at Geneva, in Switzerland, at the earliest convenient day after they shall have been named, and shall proceed impartially and carefully to examine and decide all questions that shall be laid before them on the part of the Governments of the United States and Her Britannic Majesty respectively. All questions considered by the tribunal, including the final award, shall be decided by a majority of all the arbitrators.

Each of the high contracting parties shall also name one person to attend the Tribunal as its agent to represent it generally in all matters connected with the arbitration.

ARTICLE III.

The written or printed case of each of the two parties, accompanied by the documents, the official correspondence, and other evidence on which each relies, shall be delivered in duplicate to each of the arbitrators and to the agent of the other party as soon as may be after the organization of the tribunal, but within a period not exceeding six months from the date of the exchange of the ratifications of this treaty.

ARTICLE IV.

Within four months after the delivery on both sides of the written or printed case, either party may, in like manner, deliver in duplicate to each of the said arbitrators, and to the agent of the other party, a counter case and additional documents, correspondence, and evidence in reply to the case, documents, correspondence, and evidence so presented by the other party.

The arbitrators may, however, extend the time for delivering such counter case, documents, correspondence, and evidence, when, in their judgment, it becomes necessary, in consequence of the distance of the place from which the evidence to be presented is to be procured.

If in the case submitted to the arbitrators either party shall have specified or alluded to any report or document in its own exclusive possession without annexing a copy, such party shall be bound, if the other party thinks proper to apply for it, to furnish that party with a copy thereof; and either party may call upon the other, through the arbitrators, to produce the originals or certified copies of any papers adduced as evidence, giving in each instance such reasonable notice as the arbitrators may require.

ARTICLE V.

It shall be the duty of the agent of each party, within two months after the expiration of the time limited for the delivery of the counter

case on both sides, to deliver in duplicate to each of the said arbitrators and to the agent of the other party a written or printed argument showing the points and referring to the evidence upon which his Government relies; and the arbitrators may, if they desire further elucidation with regard to any point, require a written or printed statement or argument, or oral argument by counsel upon it; but in such case the other party shall be entitled to reply, either orally or in writing, as the case may be.

ARTICLE VI.

In deciding the matters submitted to the arbitrators, they shall be governed by the following three rules, which are agreed upon by the high contracting parties as rules to be taken as applicable to the case, and by such principles of international law not inconsistent therewith as the arbitrators shall determine to have been applicable to the case.

RULES.

A neutral government is bound—

First, to use due diligence to prevent the fitting out, arming, or equipping, within its jurisdiction of any vessel which it has reasonable ground to believe is intended to cruise or to carry on war against a power with which it is at peace; and also to use like diligence to prevent the departure from its jurisdiction of any vessel intended to cruise or carry on war as above, such vessel having been specially adapted; in whole or in part, within such jurisdiction, to warlike use.

Secondly, not to permit or suffer either belligerent to make use of its ports or waters as the base of naval operations against the other, or for the purpose of the renewal or augmentation of military supplies or arms, or the recruitment of men.

Thirdly, to exercise due diligence in its own ports and waters, and, as to all persons within its jurisdiction, to prevent any violation of the foregoing obligations and duties.

Her Britannic Majesty has commanded her high commissioners and plenipotentiaries to declare that Her Majesty's government cannot assent to the foregoing rules as a statement of principles of international law which were in force at the time when the claims mentioned in article I arose, but that Her Majesty's government, in order to evince its desire of strengthening the friendly relations between the two countries and of making satisfactory provision for the future, agrees that in deciding the questions between the two countries arising out of those claims, the arbitrators should assume that Her Majesty's government had undertaken to act upon the principles set forth in these rules.

And the high contracting parties agree to observe these rules as between themselves in future, and to bring them to the knowledge of other maritime powers, and to invite them to accede to them.

ARTICLE VII.

The decision of the tribunal shall, if possible, be made within three months from the close of the argument on both sides.

It shall be made in writing and dated, and shall be signed by the arbitrators who may assent to it.

The said tribunal shall first determine as to each vessel separately whether Great Britain has, by any act or omission, failed to fulfill any of the duties set forth in the foregoing three rules, or recognized by the

principles of international law not inconsistent with such rules, and shall certify such fact as to each of the said vessels. In case the tribunal find that Great Britain has failed to fulfill any duty or duties as aforesaid, it may, if it think proper, proceed to award a sum in gross to be paid by Great Britain to the United States for all the claims referred to it; and in such case the gross sum so awarded shall be paid in coin by the government of Great Britain to the Government of the United States, at Washington, within twelve months after the date of the award.

The award shall be in duplicate, one copy whereof shall be delivered to the agent of the United States for his Government, and the other copy shall be delivered to the agent of Great Britain for his government.

ARTICLE VIII.

Each Government shall pay its own agent and provide for the proper remuneration of the counsel employed by it and of the arbitrator appointed by it, and for the expense of preparing and submitting its case to the tribunal. All other expenses connected with the arbitration shall be defrayed by the two Governments in equal moieties.

ARTICLE IX.

The arbitrators shall keep an accurate record of their proceedings, and may appoint and employ the necessary officers to assist them.

ARTICLE X.

In case the tribunal finds that Great Britain has failed to fulfill any duty or duties as aforesaid, and does not award a sum in gross, the high contracting parties agree that a board of assessors shall be appointed to ascertain and determine what claims are valid, and what amount or amounts shall be paid by Great Britain to the United States on account of the liability arising from such failure, as to each vessel, according to the extent of such liability as decided by the arbitrators.

The board of assessors shall be constituted as follows: One member thereof shall be named by the President of the United States; one member thereof shall be named by Her Britannic Majesty; and one member thereof shall be named by the representative at Washington of His Majesty the King of Italy; and in case of a vacancy happening from any cause, it shall be filled in the same manner in which the original appointment was made.

As soon as possible after such nominations the board of assessors shall be organized in Washington, with power to hold their sittings there, or in New York, or in Boston. The members thereof shall severally subscribe a solemn declaration that they will impartially and carefully examine and decide, to the best of their judgment and according to justice and equity, all matters submitted to them, and shall forthwith proceed, under such rules and regulations as they may prescribe, to the investigation of the claims which shall be presented to them by the Government of the United States, and shall examine and decide upon them in such order and manner as they may think proper, but upon such evidence or information only as shall be furnished by or on behalf of the Governments of the United States and of Great Britain, respectively. They shall be bound to hear on each separate claim, if required, one person on behalf of each Government, as counsel or agent. A majority of the assessors in each case shall be sufficient for a decision.

The decision of the assessors shall be given upon each claim in writing, and shall be signed by them respectively and dated.

Every claim shall be presented to the assessors within six months from the day of their first meeting, but they may, for good cause shown, extend the time for the presentation of any claim to a further period not exceeding three months.

The assessors shall report to each Government at or before the expiration of one year from the date of their first meeting the amount of claims decided by them up to the date of such report; if further claims then remain undecided, they shall make a further report at or before the expiration of two years from the date of such first meeting; and in case any claims remain undetermined at that time, they shall make a final report within a further period of six months.

The report or reports shall be made in duplicate, and one copy thereof shall be delivered to the Secretary of State of the United States, and one copy thereof to the representative of Her Britannic Majesty at Washington.

All sums of money which may be awarded under this article shall be payable at Washington, in coin, within twelve months after the delivery of each report.

The board of assessors may employ such clerks as they shall think necessary.

The expenses of the board of assessors shall be borne equally by the two governments, and paid from time to time, as may be found expedient, on the production of accounts certified by the board. The remuneration of the assessors shall also be paid by the two governments in equal moieties in a similar manner.

ARTICLE XI.

The high contracting parties engage to consider the result of the proceedings of the tribunal of arbitration and of the board of assessors, should such board be appointed, as a full, perfect, and final settlement of all the claims hereinbefore referred to; and further engage that every such claim, whether the same may or may not have been presented to the notice of, made, preferred, or laid before the tribunal or board, shall, from and after the conclusion of the proceedings of the tribunal or board, be considered and treated as finally settled, barred, and thenceforth inadmissible.

ARTICLE XII.

The high contracting parties agree that all claims on the part of corporations, companies, or private individuals, citizens of the United States, upon the government of Her Britannic Majesty, arising out of acts committed against the persons or property of citizens of the United States during the period between the thirteenth of April, eighteen hundred and sixty-one, and the ninth of April, eighteen hundred and sixty-five, inclusive, not being claims growing out of the acts of the vessels referred to in Article I of this treaty, and all claims, with the like exception, on the part of corporations, companies, or private individuals, subjects of Her Britannic Majesty, upon the Government of the United States, arising out of acts committed against the persons or property of subjects of Her Britannic Majesty during the same period, which may have been presented to either government for its interposition with the other, and which yet remain unsettled, as well as any other such claims

which may be presented within the time specified in Article XIV of this treaty, shall be referred to three commissioners, to be appointed in the following manner, that is to say: One commissioner shall be named by the President of the United States, one by Her Britannic Majesty, and a third by the President of the United States and Her Britannic Majesty conjointly; and in case the third commissioner shall not have been so named within a period of three months from the date of the exchange of the ratifications of this treaty, then the third commissioner shall be named by the representative at Washington of His Majesty the King of Spain. In case of the death, absence, or incapacity of any commissioner, or in the event of any commissioner omitting or ceasing to act, the vacancy shall be filled in the manner hereinbefore provided for making the original appointment, the period of three months in case of such substitution being calculated from the date of the happening of the vacancy.

The commissioners so named shall meet at Washington at the earliest convenient period after they have been respectively named, and shall, before proceeding to any business, make and subscribe a solemn declaration that they will impartially and carefully examine and decide, to the best of their judgment and according to justice and equity, all such claims as shall be laid before them on the part of the governments of the United States and of Her Britannic Majesty, respectively; and such declaration shall be entered on the record of their proceedings.

ARTICLE XIII.

The commissioners shall then forthwith proceed to the investigation of the claims which shall be presented to them. They shall investigate and decide such claims in such order and such manner as they may think proper, but upon such evidence or information only as shall be furnished by or on behalf of the respective governments. They shall be bound to receive and consider all written documents or statements which may be presented to them by or on behalf of the respective governments in support of or in answer to any claim, and to hear, if required, one person on each side, on behalf of each government, as counsel or agent for such government, on each and every separate claim. A majority of the commissioners shall be sufficient for an award in each case. The award shall be given upon each claim in writing, and shall be signed by the commissioners assenting to it. It shall be competent for each government to name one person to attend the commissioners as its agent, to present and support claims on its behalf, and to answer claims made upon it, and to represent it generally in all matters connected with the investigation and decision thereof.

The high contracting parties hereby engage to consider the decision of the commissioners as absolutely final and conclusive upon each claim decided upon by them, and to give full effect to such decisions without any objection, evasion, or delay whatsoever.

ARTICLE XIV.

Every claim shall be presented to the commissioners within six months from the day of their first meeting, unless in any case where reasons for delay shall be established to the satisfaction of the commissioners, and then, and in any such case, the period for presenting the claim may be extended by them to any time not exceeding three months longer.

The commissioners shall be bound to examine and decide upon every

claim within two years from the day of their first meeting. It shall be competent for the commissioners to decide in each case whether any claim has or has not been duly made, preferred, and laid before them, either wholly or to any and what extent, according to the true intent and meaning of this treaty.

ARTICLE XV.

All sums of money which may be awarded by the commissioners on account of any claim shall be paid by the one government to the other, as the case may be, within twelve months after the date of the final award, without interest and without any deduction save as specified in Article XVI of this treaty.

ARTICLE XVI.

The commissioners shall keep an accurate record and correct minutes or notes of all their proceedings, with the dates thereof, and may appoint and employ a secretary, and any other necessary officer or officers, to assist them in the transaction of the business which may come before them.

Each government shall pay its own commissioner and agent or counsel. All other expenses shall be defrayed by the two governments in equal moieties.

The whole expenses of the commission, including contingent expenses, shall be defrayed by a ratable deduction on the amount of the sums awarded by the commissioners, provided always that such deduction shall not exceed the rate of five per cent. on the sums so awarded.

ARTICLE XVII.

The high contracting parties engage to consider the result of the proceedings of this commission as a full, perfect, and final settlement of all such claims as are mentioned in Article XII of this treaty upon either government; and further engage that every such claim, whether or not the same may have been presented to the notice of, made, preferred, or laid before the said commission, shall, from and after the conclusion of the proceedings of the said commission, be considered and treated as finally settled, barred, and thenceforth inadmissible.

ARTICLE XVIII.

It is agreed by the high contracting parties that, in addition to the liberty secured to the United States fishermen by the convention between the United States and Great Britain, signed at London on the 20th day of October, 1818, of taking, curing, and drying fish on certain coasts of the British North American colonies therein defined, the inhabitants of the United States shall have, in common with the subjects of Her Britannic Majesty, the liberty, for the term of years mentioned in Article XXXIII of this treaty, to take fish of every kind, except shell-fish, on the sea-coasts and shores, and in the bays, harbors, and creeks, of the provinces of Quebec, Nova Scotia, and New Brunswick, and the colony of Prince Edward's Island, and of the several islands thereunto adjacent, without being restricted to any distance from the shore, with permission to land upon the said coasts and shores and islands, and also upon the Magdalen Islands, for the purpose of drying their nets and curing their fish; provided that, in so doing, they do

not interfere with the rights of private property, or with British fishermen, in the peaceable use of any part of the said coasts in their occupancy for the same purpose.

It is understood that the above-mentioned liberty applies solely to the sea fishery, and that the salmon and shad fisheries, and all other fisheries in rivers and the mouths of rivers, are hereby reserved exclusively for British fishermen.

ARTICLE XIX.

It is agreed by the high contracting parties that British subjects shall have, in common with the citizens of the United States, the liberty, for the term of years mentioned in Article XXXIII of this treaty, to take fish of every kind, except shell-fish, on the eastern sea-coasts and shores of the United States north of the thirty-ninth parallel of north latitude, and on the shores of the several islands thereunto adjacent, and in the bays, harbors, and creeks of the said sea-coasts and shores of the United States and of the said islands, without being restricted to any distance from the shore, with permission to land upon the said coasts of the United States and of the islands aforesaid, for the purpose of drying their nets and curing their fish, provided that, in so doing, they do not interfere with the rights of private property, or with the fishermen of the United States in the peaceable use of any part of the said coasts in their occupancy for the same purpose.

It is understood that the above-mentioned liberty applies solely to the sea fishery, and that salmon and shad fisheries, and all other fisheries in rivers and mouths of rivers, are hereby reserved exclusively for fishermen of the United States.

ARTICLE XX.

It is agreed that the places designated by the commissioners appointed under the first article of the treaty between the United States and Great Britain, concluded at Washington on the 5th of June, 1854, upon the coasts of Her Britannic Majesty's dominions and the United States, as places reserved from the common right of fishing under that treaty, shall be regarded as in like manner reserved from the common right of fishing under the preceding articles. In case any question should arise between the governments of the United States and of Her Britannic Majesty as to the common right of fishing in places not thus designated as reserved, it is agreed that a commission shall be appointed to designate such places, and shall be constituted in the same manner, and have the same powers, duties, and authority as the commission appointed under the said first article of the treaty of the 5th of June, 1854.

ARTICLE XXI.

It is agreed that, for the term of years mentioned in Article XXXIII of this treaty, fish oil and fish of all kinds, (except fish of the inland lakes, and of the rivers falling into them, and except fish preserved in oil,) being the produce of the fisheries of the United States, or of the Dominion of Canada, or of Prince Edward's Island, shall be admitted into each country, respectively, free of duty.

ARTICLE XXII.

Inasmuch as it is asserted by the government of Her Britannic Majesty that the privileges accorded to the citizens of the United States under Article XVIII of this treaty are of greater value than those

accorded by Articles XIX and XXI of this treaty to the subjects of Her Britannic Majesty, and this assertion is not admitted by the Government of the United States, it is further agreed that commissioners shall be appointed to determine, having regard to the privileges accorded by the United States to the subjects of Her Britannic Majesty, as stated in Articles XIX and XXI of this treaty, the amount of any compensation which, in their opinion, ought to be paid by the Government of the United States to the government of Her Britannic Majesty in return for the privileges accorded to the citizens of the United States under Article XVIII of this treaty; and that any sum of money which the said commissioners may so award shall be paid by the United States Government, in a gross sum, within twelve months after such award shall have been given.

ARTICLE XXIII.

The commissioners referred to in the preceding article shall be appointed in the following manner, that is to say: One commissioner shall be named by the President of the United States, one by Her Britannic Majesty, and a third by the President of the United States and Her Britannic Majesty conjointly; and in case the third commissioner shall not have been so named within a period of three months from the date when this article shall take effect, then the third commissioner shall be named by the representative at London of His Majesty the Emperor of Austria and King of Hungary. In case of the death, absence, or incapacity of any commissioner, or in the event of any commissioner omitting or ceasing to act, the vacancy shall be filled in the manner hereinbefore provided for making the original appointment, the period of three months in case of such substitution being calculated from the date of the happening of the vacancy.

The commissioners so named shall meet in the city of Halifax, in the province of Nova Scotia, at the earliest convenient period after they have been respectively named, and shall, before proceeding to any business, make and subscribe a solemn declaration that they will impartially and carefully examine and decide the matters referred to them to the best of their judgment, and according to justice and equity; and such declaration shall be entered on the record of their proceedings.

Each of the high contracting parties shall also name one person to attend the commission as its agent, to represent it generally in all matters connected with the commission.

ARTICLE XXIV.

The proceedings shall be conducted in such order as the commissioners appointed under Articles XXII and XXIII of this treaty shall determine. They shall be bound to receive such oral or written testimony as either government may present. If either party shall offer oral testimony, the other party shall have the right of cross-examination, under such rules as the commissioners shall prescribe.

If in the case submitted to the commissioners either party shall have specified or alluded to any report or document in its own exclusive possession, without annexing a copy, such party shall be bound, if the other party thinks proper to apply for it, to furnish that party with a copy thereof; and either party may call upon the other, through the commissioners, to produce the originals or certified copies of any papers adduced as evidence, giving in each instance such reasonable notice as the commissioners may require.

The case on either side shall be closed within a period of six months from the date of the organization of the commission, and the commissioners shall be requested to give their award as soon as possible thereafter. The aforesaid period of six months may be extended for three months in case of a vacancy occurring among the commissioners under the circumstances contemplated in Article XXIII of this treaty.

ARTICLE XXV.

The commissioners shall keep an accurate record and correct minutes or notes of all their proceedings, with the dates thereof, and may appoint and employ a secretary and any other necessary officer or officers to assist them in the transaction of the business which may come before them.

Each of the high contracting parties shall pay its own commissioner and agent or counsel; all other expenses shall be defrayed by the two governments in equal moieties.

ARTICLE XXVI.

The navigation of the river St. Lawrence, ascending and descending, from the forty-fifth parallel of north latitude, where it ceases to form the boundary between the two countries, from, to, and into the sea, shall forever remain free and open for the purposes of commerce to the citizens of the United States, subject to any laws and regulations of Great Britain, or of the Dominion of Canada, not inconsistent with such privilege of free navigation.

The navigation of the rivers Yukon, Porcupine, and Stikine, ascending and descending, from, to, and into the sea, shall forever remain free and open for the purposes of commerce to the subjects of her Britannic Majesty and to the citizens of the United States, subject to any laws and regulations of either country within its own territory, not inconsistent with such privilege of free navigation.

ARTICLE XXVII.

The government of Her Britannic Majesty engages to urge upon the government of the Dominion of Canada to secure to the citizens of the United States the use of the Welland, St. Lawrence, and other canals in the Dominion on terms of equality with the inhabitants of the Dominion; and the Government of the United States engages that the subjects of Her Britannic Majesty shall enjoy the use of the St. Clair Flats Canal on terms of equality with the inhabitants of the United States, and further engages to urge upon the State governments to secure to the subjects of Her Britannic Majesty the use of the several State canals connected with the navigation of the lakes or rivers traversed by or contiguous to the boundary line between the possessions of the high contracting parties, on terms of equality with the inhabitants of the United States.

ARTICLE XXVIII.

The navigation of Lake Michigan shall also, for the term of years mentioned in Article XXXIII of this treaty, be free and open for the purposes of commerce to the subjects of Her Britannic Majesty, subject to any laws and regulations of the United States or of the States bordering thereon, not inconsistent with such privilege of free navigation.

ARTICLE XXIX.

It is agreed that, for the term of years mentioned in Article XXXIII of this treaty, goods, wares, or merchandise arriving at the ports of New York, Boston, and Portland, and any other ports in the United States which have been or may, from time to time, be specially designated by the President of the United States, and destined for Her Britannic Majesty's possessions in North America, may be entered at the proper custom-house and conveyed in transit, without the payment of duties, through the territory of the United States, under such rules, regulations, and conditions for the protection of the revenue as the Government of the United States may from time to time prescribe; and under like rules, regulations, and conditions, goods, wares, or merchandise may be conveyed in transit, without the payment of duties, from such possessions through the territory of the United States for export from the said ports of the United States.

It is further agreed that, for the like period, goods, wares, or merchandise arriving at any of the ports of her Britannic Majesty's possessions in North America, and destined for the United States, may be entered at the proper custom-house and conveyed in transit, without the payment of duties, through the said possessions, under such rules and regulations and conditions for the protection of the revenue as the governments of the said possessions may from time to time prescribe; and, under like rules, regulations, and conditions, goods, wares, or merchandise may be conveyed in transit, without payment of duties, from the United States through the said possessions to other places in the United States, or for export from ports in the said possessions.

ARTICLE XXX.

It is agreed that, for the term of years mentioned in Article XXXIII of this treaty, subjects of her Britannic Majesty may carry in British vessels, without payment of duty, goods, wares, or merchandise from one port or place within the territory of the United States upon the St. Lawrence, the great lakes, and the rivers connecting the same, to another port or place within the territory of the United States as aforesaid: Provided, That a portion of such transportation is made through the Dominion of Canada by land carriage and in bond, under such rules and regulations as may be agreed upon between the government of Her Britannic Majesty and the Government of the United States.

Citizens of the United States may for the like period carry in United States vessels, without payment of duty, goods, wares, or merchandise from one port or place within the possessions of Her Britannic Majesty in North America to another port or place within the said possessions: Provided, That a portion of such transportation is made through the territory of the United States by land carriage and in bond, under such rules and regulations as may be agreed upon between the Government of the United States and the government of Her Britannic Majesty.

The Government of the United States further engages not to impose any export duties on goods, wares, or merchandise carried under this article through the territory of the United States; and Her Majesty's government engages to urge the Parliament of the Dominion of Canada and the legislatures of the other colonies not to impose any export duties on goods, wares, or merchandise carried under this article; and the Government of the United States may, in case such export duties are imposed by the Dominion of Canada, suspend, during the period that

such duties are imposed, the right of carrying granted under this article in favor of the subjects of Her Britannic Majesty.

The Government of the United States may suspend the right of carrying granted in favor of the subjects of her Britannic Majesty under this article, in case the Dominion of Canada should at any time deprive the citizens of the United States of the use of the canals in the said Dominion on terms of equality with the inhabitants of the Dominion, as provided in Article XXVII.

ARTICLE XXXI.

The government of Her Britannic Majesty further engages to urge upon the Parliament of the Dominion of Canada and the legislature of New Brunswick, that no export duty, or other duty, shall be levied on lumber or timber of any kind cut on that portion of the American territory in the State of Maine watered by the river St. John and its tributaries, and floated down that river to the sea, when the same is shipped to the United States from the province of New Brunswick. And, in case any such export or other duty continues to be levied after the expiration of one year from the date of the exchange of the ratifications of this treaty, it is agreed that the Government of the United States may suspend the right of carrying hereinbefore granted under Article XXX of this treaty for such period as such export or other duty may be levied.

ARTICLE XXXII.

It is further agreed that the provisions and stipulations of Articles XVIII to XXV of this treaty, inclusive, shall extend to the colony of Newfoundland, so far as they are applicable. But if the imperial Parliament, the legislature of Newfoundland, or the Congress of the United States, shall not embrace the colony of Newfoundland in their laws enacted for carrying the foregoing articles into effect, then this article shall be of no effect; but the omission to make provision by law to give it effect, by either of the legislative bodies aforesaid, shall not in any way impair any other articles of this treaty.

ARTICLE XXXIII.

The foregoing Articles XVIII to XXV, inclusive, and Article XXX of this treaty, shall take effect as soon as the laws required to carry them into operation shall have been passed by the imperial Parliament of Great Britain, by the Parliament of Canada, and by the legislature of Prince Edward's Island on the one hand, and by the Congress of the United States on the other. Such assent having been given, the said articles shall remain in force for the period of ten years from the date at which they may come into operation; and further until the expiration of two years after either of the high contracting parties shall have given notice to the other of its wish to terminate the same; each of the high contracting parties being at liberty to give such notice to the other at the end of the said period of ten years or at any time afterward.

ARTICLE XXXIV.

Whereas it was stipulated by Article I of the treaty concluded at Washington on the 15th June, 1846, between the United States and Her Britannic Majesty, that the line of boundary between the territories of the United States and those of Her Britannic Majesty, from the

point on the forty-ninth parallel of north latitude up to which it had already been ascertained, should be continued westward along the said parallel of north latitude "to the middle of the channel which separates the continent from Vancouver's Island, and thence southerly, through the middle of the said channel and of Fuca Straits, to the Pacific Ocean;" and whereas the commissioners appointed by the two high contracting parties to determine that portion of the boundary which runs southerly through the middle of the channel aforesaid, were unable to agree upon the same; and whereas the government of Her Britannic Majesty claims that such boundary line should, under the terms of the treaty above recited, be run through the Rosario Straits, and the Government of the United States claims that it should be run through the Canal de Haro, it is agreed that the respective claims of the Government of the United States and of the government of Her Britannic Majesty shall be submitted to the arbitration and award of His Majesty the Emperor of Germany, who, having regard to the above-mentioned article of the said treaty, shall decide thereupon, finally and without appeal, which of those claims is most in accordance with the true interpretation of the treaty of June 15, 1846.

ARTICLE XXXV.

The award of His Majesty the Emperor of Germany shall be considered as absolutely final and conclusive; and full effect shall be given to such award without any objection, evasion, or delay whatsoever. Such decision shall be given in writing and dated; it shall be in whatsoever form His Majesty may choose to adopt; it shall be delivered to the representatives or other public agents of the United States and of Great Britain, respectively, who may be actually at Berlin, and shall be considered as operative from the day of the date of the delivery thereof.

ARTICLE XXXVI.

The written or printed case of each of the two parties, accompanied by the evidence offered in support of the same, shall be laid before His Majesty the Emperor of Germany within six months from the date of the exchange of the ratifications of this treaty, and a copy of such case and evidence shall be communicated by each party to the other, through their respective representatives at Berlin.

The high contracting parties may include in the evidence to be considered by the arbitrator such documents, official correspondence, and other official or public statements bearing on the subject of the reference as they may consider necessary to the support of their respective cases.

After the written or printed case shall have been communicated by each party to the other, each party shall have the power of drawing up and laying before the arbitrator a second and definitive statement, if it think fit to do so, in reply to the case of the other party so communicated, which definitive statement shall be so laid before the arbitrator, and also be mutually communicated in the same manner as aforesaid, by each party to the other, within six months from the date of laying the first statement of the case before the arbitrator.

ARTICLE XXXVII.

If, in the case submitted to the arbitrator, either party shall specify or allude to any report or document in its own exclusive possession without annexing a copy, such party shall be bound, if the other party

thinks proper to apply for it, to furnish that party with a copy thereof, and either party may call upon the other, through the arbitrator, to produce the originals or certified copies of any papers adduced as evidence, giving in each instance such reasonable notice as the arbitrator may require. And if the arbitrator should desire further elucidation or evidence with regard to any point contained in the statements laid before him, he shall be at liberty to require it from either party, and he shall be at liberty to hear one counsel or agent for each party, in relation to any matter, and at such time, and in such manner, as he may think fit.

ARTICLE XXXVIII.

The representatives or other public agents of the United States and of Great Britain at Berlin, respectively, shall be considered as the agents of their respective governments to conduct their cases before the arbitrator, who shall be requested to address all his communications, and give all his notices to such representatives or other public agents, who shall represent their respective governments, generally, in all matters connected with the arbitration.

ARTICLE XXXIX.

It shall be competent to the arbitrator to proceed in the said arbitration, and all matters relating thereto, as and when he shall see fit, either in person, or by a person or persons named by him for that purpose, either in the presence or absence of either or both agents, and either orally or by written discussion or otherwise.

ARTICLE XL.

The arbitrator may, if he think fit, appoint a secretary, or clerk, for the purposes of the proposed arbitration, at such rate of remuneration as he shall think proper. This, and all other expenses of and connected with the said arbitration, shall be provided for as hereinafter stipulated.

ARTICLE XLI.

The arbitrator shall be requested to deliver, together with his award, an account of all the costs and expenses which he may have been put to in relation to this matter, which shall forthwith be repaid by the two governments in equal moieties.

ARTICLE XLII.

The arbitrator shall be requested to give his award in writing as early as convenient after the whole case on each side shall have been laid before him, and to deliver one copy thereof to each of the said agents.

ARTICLE XLIII.

The present treaty shall be duly ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by Her Britannic Majesty; and the ratifications shall be exchanged either at Washington or at London within six months from the date hereof, or earlier if possible.

In faith whereof, we, the respective plenipotentiaries, have signed this treaty and have hereunto affixed our seals.

Done in duplicate at Washington the eighth day of May, in the year, of our Lord one thousand eight hundred and seventy-one.

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[L. S.]

HAMILTON FISH.
ROBT. C. SCHENCK.
SAMUEL NELSON.
EBENEZER ROCKWOOD HOAR.
GEO. H. WILLIAMS.
DE GREY & RIPON.
STAFFORD H. NORTHCOTE.
EDWD. THORNTON.
JOHN A. MACDONALD.
MOUNTAGUE BERNARD.

And whereas the said treaty has been duly ratified on both parts, and the respective ratifications of the same were exchanged in the city of London, on the seventeenth day of June, 1871, by Robert C. Schenck, envoy extraordinary and minister plenipotentiary of the United States, and Earl Granville, Her Majesty's principal secretary of state for foreign affairs, on the part of their respective governments:

Now, therefore, be it known that I, Ulysses S. Grant, President of the United States of America, have caused the said treaty to be made public, to the end that the same, and every clause and article thereof, may be observed and fulfilled with good faith by the United States and the citizens thereof.

In witness whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this fourth day of July, in the year of our Lord one thousand eight hundred and seventy-one, and
[SEAL.] of the Independence of the United States the ninety-sixth.

U. S. GRANT.

By the President:

HAMILTON FISH,
Secretary of State.

No. 237.

The President to the Governor of New York.

EXECUTIVE MANSION,
Washington, November 29, 1871.

SIR: I transmit herewith a copy of a treaty concluded in this city on the 8th day of May last, between the United States and Great Britain.

By the 27th article the government of Her Britannic Majesty engages to urge upon the government of the Dominion of Canada to secure to the citizens of the United States the use of the Welland, St. Lawrence, and other Canals in the Dominion, on terms of equality with the inhabitants of the Dominion, and the Government of the United States engages to urge upon the State governments to secure to the subjects of Her Britannic Majesty the use of the several State canals connected with the navigation of the lakes or rivers traversed by or contiguous to the boundary line between the possessions of the high contracting parties, on terms of equality with the inhabitants of the United States.

The wisdom and the importance of these reciprocal concessions of the use of the artificial channels of water communication contemplated by

the treaty on terms of equality to the citizens or subjects of either power are apparent. The rapid increase of population and of production of the vast territory on either side of the boundary line and on the upper lakes demands all the channels of communication with the tide waters, which either nature or the enterprise of man has made available. It is confidently believed that the use of the artificial water communications which the treaty contemplates will contribute to a rapid increase of trade through those several channels, and will tend to a consequent increase in the tolls and returns of profits, both direct and indirect, to each, and all of the canals thus opened to the use of a larger extent of country.

As the period is approaching when the legislature of your State is about to convene, I desire to bring the provisions of this article of the treaty to its notice, and to urge upon your State government to secure to the subjects of her Britannic Majesty the use of the several State canals within the State of New York, connected with the navigation of the lakes or rivers traversed by or contiguous to the boundary line between the possessions of the United States and those of her Britannic Majesty in North America, on terms of equality with the inhabitants of the United States.

I address a similar request to other States through which are constructed canals connected with the navigation of the lakes.

I have the honor to be, &c., &c.,

U. S. GRANT.

His Excellency JOHN T. HOFFMAN,
Governor of the State of New York.

Same, *mutatis mutandis*, to the governors of the States of Indiana, Illinois, Michigan, Ohio, Pennsylvania, and Wisconsin.

No. 238.

4.—PAYMENTS TO GREAT BRITAIN UNDER THE TREATY OF JULY 1, 1863.

Mr. Fish to Mr. Akerman.

DEPARTMENT OF STATE,
Washington, August 1, 1871.

SIR: I have the honor to inclose herewith a memorandum sent to me by Sir Edward Thornton containing an argument against the deduction from an installment of \$100,000, payable to the British government on the 21st instant, of the sum of \$27,061 97, claimed to be due from the Puget Sound Agricultural Company to Pierce County, Washington Territory, for taxes assessed in the years 1859 to 1869, upon lands in the occupation of said company, and of the further sum \$34,243 25, claim for interest upon such unpaid taxes.

The only information which the Department has as to the purposes for which the taxes were imposed is derived from a letter from the honorable Messrs. Garfield and Poland, the attorneys for Pierce County, and the accompanying statement and certificate of the clerk of same county, of the amount in which they are distributed under the heads of county tax, school tax, territorial tax, and road tax, copies of which are inclosed.

I have to request your opinion as to whether the law and the treaties referred to in the memorandum require the retention in the Treasury

of a sum equal to the taxes before mentioned, and also whether the amount charged as interest upon the unpaid taxes is also to be retained.

I will thank you to return the memorandum when it shall have answered your purpose.

I have the honor to be, sir, your obedient servant,

HAMILTON FISH.

Hon. A. T. AKERMAN,
Attorney General.

Mr. Thornton to Mr. Fish.

WASHINGTON, May 25, 1871.

SIR: I have the honor to invite your attention to the act of appropriation for the consular and diplomatic services for the year ending June 30, 1872, and to that section of it which provides for the second and last installment of the amount awarded by the commissioners under the treaty of July 1, 1863, in satisfaction of the claims of the Hudson's Bay and Puget Sound Agricultural Companies. To this section is added a proviso that before payment shall be made of the last installment, all taxes legally assessed upon any of the property of the Puget Sound Agricultural Company, covered by the said award before the same was made, and still unpaid, shall be extinguished by the said company; or the amount of such taxes shall be withheld by the Government of the United States from the sum appropriated as above.

You have recently been good enough to furnish me with a copy of an account showing the amount of taxes which are claimed by Pierce County, Washington Territory, to be due by the Puget Sound Agricultural Company on the lands with regard to which the award was made.

In accordance with your permission, I have now the honor to submit for your perusal a memorandum which I have caused to be drawn up relative to the above-mentioned taxes, and I am not without hopes that you will be persuaded that the amount thereof ought not, either legally or equitably, to be deducted from the final installment to be paid in September next.

I have, &c., &c.,

EDWD. THORNTON.

[Inclosure.]

As a claim has been made for the payment of taxes assessed upon the property of the Puget Sound Agricultural Company out of the sum awarded by the commissioners under the treaty of July, 1863, the following statement is offered to show that such a claim should not be allowed, and that it cannot be supported upon legal or equitable grounds.

It is not necessary to set out in detail the early history of the company, or the now admitted and adjudged fact of their possession of some 167,000 acres of land on the shores of Puget Sound, a large portion of which was open prairie, and in that thickly-wooded country very desirable for settlement.

Article IV of the treaty of June 4, 1846, provides that the farm lands and other property of every description belonging to the Puget Sound Agricultural Company, on the north side of the Columbia River, shall be confirmed to the said company. In case, however, the situation of those farms and lands should be considered by the United States to be of public and political importance, and the United States Government should signify a desire to obtain possession of the whole or any part thereof, the property so required shall be transferred to the said Government at a proper valuation to be agreed upon between the parties. The treaty of July 1, 1863, after reciting the foregoing provisions, and reciting that whereas it is desirable that all questions between the United States authorities on the one hand, and the Hudson Bay and Puget Sound companies on the other, with respect to the possessory rights and claims of these companies, and of any other British subjects in Washington and Oregon Territories, should be settled by the transfer of those rights and claims to the Government of the United States for an adequate money consideration, provided for the appointment of a joint commission to examine and decide upon all claims arising out of the provisions of said treaty of June 15, 1846. Article IV of the treaty of July 1, 1863, provides that "all sums of money which may be awarded by the commissioners, or by the arbitrators or umpire, on account of any claim, shall be paid by the one government to the other in two annual installments, whereof the first shall be paid within twelve months after the date of the award, and the second within twenty-four months after the date of the award, without interest, and without any deduction whatever."

On the 10th of September, 1869, the commissioners appointed under the said treaty rendered their decision, and awarded "as an adequate money consideration for the transfer to the United States of America of all the possessory rights and claims of the

Puget Sound Agricultural Company, and in full satisfaction of all such rights and claims, there ought to be paid the sum of \$200,000 at the times and in the manner provided in the 4th article of said treaty," and appended to such award a form of deed of rebate, to be executed by said company, releasing all of their possessory rights and claims, and demands founded upon or growing out of the said treaties, or the possessory rights or claims of said company, before referred to. (See pages 30 and 31, printed opinions and awards.) The first installment of the said treaty and award was paid by the United States, as stipulated; for the payment of the second installment, Congress, in March, 1871, made an appropriation, with the following proviso: "That before payment shall be made of that portion of the entire sum awarded to the Puget Sound Agricultural Company, all taxes *legally assessed* upon any of the property of the said company covered by the said award before the same was made, and *still unpaid*, shall be extinguished by the Puget Sound Agricultural Company, or the amount of such taxes shall be withheld by the Government of the United States from the sum hereby appropriated."

The amount of such unpaid taxes as appears from the certificate of the clerk of Pierce County, Washington Territory, filed with the Secretary of State, is \$27,061 97, being the amount of taxes claimed to have been assessed upon the lands of the company from the year 1859 to the year 1869, inclusive, and there is claimed the further sum of \$34,243 25 as penalties for the non-payment of such taxes at the times when claimed to have been assessed, making the total sum claimed \$61,305 22. One question arises as to the effect of the proviso in said appropriation act, and whether the taxes alleged to have been *legally assessed* and still unpaid were so assessed, or if *legally assessed*, are still unpaid, and leads to the consideration of the following points:

1st. The lands were not subject to taxation, (a;) the said company, at the time and prior to the transfer of this territory by Great Britain to the United States, had simply possessory rights, but no legal title, which fact was determined by the said commissioners. Mr. Johnson, commissioner on the part of the United States, in his separate opinion, (p. 26,) says: "There was never any grant of lands by the British government to this company," a fact in the knowledge of both governments; and in commenting upon the language used in the 4th article, on p. 27, says: "Upon these principles of interpretation, I have no hesitation in saying that the intent of the parties, as manifested by the terms employed, included all the lands which apparently belonged to the company;" the term "belonging" is not a condition, and imparts none into the provision; it is used merely as a part of the description and designation of the property intended. Mr. John Rose, commissioner on the part of Great Britain, holds the like opinion, and held "that the term 'belonging,' used in the treaty, did not imply restriction to such property as the company could prove a legal title to," (see p. 14;) and on 15 says: "I cannot accept the modified interpretation contended for by the United States, that it meant to confirm only what the company could prove a legal ownership in, or that in any case its claim must be confirmed to such lands as were actually inclosed. The company had no different title to the lands within inclosures from what they had to those over which their pastoral occupation extended; *both rested upon the fact of possession and use.*" After the transfer to the United States, the company obtained no title to the lands occupied by them. Mr. Johnson (p. 28 of the opinions) says: "The United States have never proceeded to confirm any lands whatever, as they stipulated they would." It may be said that the proposition as stated by Mr. Johnson is too broad, as the United States did not absolutely and unqualifiedly stipulate to confirm these lands to the company, but reserved to itself the right, in case it should so desire, to obtain possession to said lands, and to have the same transferred to the United States at a proper valuation.

The treaty was of itself, therefore, no confirmation of title; the confirmation, if any, should be made by the legislative department of the government. *Foster and Elan vs. Wilson*, 2 Peters, 253; *United States vs. Alvarado*, 6 Peters, 691. The United States, however, in said treaty reserved the right to elect whether it would confirm the company in their rights or to possess itself of the lands at a proper valuation. The latter election was made, and therefore the treaty of July 1, 1863, was entered into, and therefore no title was ever granted to the company of these lands. The United States having elected to keep the lands under the provisions of said treaty of June 15, 1846, and the title being retained by the United States, no taxes could legally be assessed against them. This provision, although one universal rule in the United States, was, however, incorporated in the organic laws of Washington Territory, wherein it was provided that no tax should be imposed on the property of the United States. (G. U. S. Stat. 175, section 6.)

All the rights the company had, therefore, in these lands were possessory with the contingency of such rights being extinguished at the option of the United States upon certain conditions, which contingency happened when the United States made its election. That there is no justification in law for this claim is apparent, and from the following facts which appear in the evidence presented to said commission it will appear that there is little claim in equity.

After the treaty of 1846, American citizens and others who had been naturalized, or had declared their intention to become such, began to settle upon the lands in the occupation of the said company, claiming the right so to do under the laws of the prov-

ional government of Oregon granting lands, and afterward under the act of Congress, September 27, 1850, and its various amendments granting lands to actual settlers in Oregon and Washington Territories.

The number of settlers having increased, a county was formed which embraced within its limits all the lands occupied by the company in 1846, the county seat of which, named Steilacoom, was located on these lands. The boundaries of the county were afterward changed, and it was altered in size until it contained very few settlers except those who had located their claims on these lands or who were living in the towns of Steilacoom and Steilacoom City, also situated upon them. The county commissioners of this county in 1850 assessed a tax upon these lands which was paid without protest. In 1852 a tax of \$645 12 was assessed and paid under protest. In 1857 taxes were assessed on 163 square miles at a valuation of \$500,000, of \$4,999, including a road tax of \$1,250 and a school tax of \$249, which was also paid under protest. The taxes of 1858 were assessed on the same quantity of land at the same valuation, amounting to the sum of \$7,250 02, which was also paid under protest. The taxes for the year 1859 were assessed at the sum of \$7,250, of which amount the company paid \$304 under protest, as before, leaving the remainder of said tax unpaid. The total amount of taxes paid by the company up to that time amounted to the sum of \$14,595 14; (see evidence of Wm. T. Palmer, on page 113 of Puget Sound Agricultural Company.) The quantity of land contained in 163 square miles being 104,320 acres, a valuation of \$500,000 makes the assessed valuation of the lands \$4 79½ per acre, and the rate of taxation \$1 45 per hundred dollars of such valuation. In a new and agricultural community this rate of taxation was monstrous and the valuation for the purpose of taxation equally so; it was, in fact, almost tantamount to confiscation. In comparison with the usual rates of valuation in other portions of the United States, these lands have been worth in market from \$6 to \$8 per acre. These same lands were, however, afterwards assessed by the same commissioners at \$1 per acre, and one of them afterward stated under oath that they were worth only 50 cents per acre.

For the entire possessions of said company, including 167,040 acres in Pierce County and 3,000 acres in Cowlitz County, the company was awarded the sum of 200,000. There is one other fact to be stated in this connection. That although there were nearly two hundred persons on the company's lands, claiming them as settlers, and although there were several settlers in the county outside of the limits of the company's possessions, yet no assessment was made on any lands except those belonging to the company; and with the exception of a small revenue derived from the taxation of personal property the entire revenue of that county was obtained from the land so assessed to the company at the foregoing oppressive rates, and of which lands only a small portion were actually used by the company. The payment of these taxes by the company was made a distinct claim before the joint commission both in the memorial and in the proof, and was argued upon the hearing in the arguments of council, yet it now here appears in the opinion or award of the commissioners what disposition was made of the subject by the commissioner, for the reason that the items which found the aggregate balance fund to be due, and awarded in favor of said company, are not stated; neither does it appear from such opinions or award, whether the taxes now claimed from the year 1859 to 1869, inclusive, were claimed on the part of the United States. It may, however, be properly urged, that as the commission had full and ample jurisdiction over the subject-matter of this claim, the award so made should be final. It will be observed that the commissioners were appointed under the treaty of 1863, to examine and decide upon all claims arising out of the treaty of June 15, 1846, and especially under the expressed desire of the United States, to obtain the possessory rights of said company in said lands, and that all sums of money which might be awarded by said commissioners should be paid by the one government to the other in the manner prescribed without any deduction whatever.

No language could be used more clearly showing the intentions of the high contracting parties to submit all claims pertaining to such lands, whether in favor of the company or in favor of the United States, and the balance of such accounts when adjusted was to be paid to whichever party was found to be indebted to the other, without any deduction whatever; in other words, the award of such commission was to be final and conclusive.

In determining the value of the rights of the company in these lands, it was proper to consider any liens or charges in the nature of taxes held by the United States, or its Territories, if any such existed legally; in fact the commission could arrive at the true result in no other way, and the presumption of law would be that every element that entered into the proper adjustment of such accounts was considered by the commission in making their award. It is not to be presumed that this proviso was enacted by Congress for the purpose of reviewing the proceedings of the high contracting parties, made under the solemn obligations of a treaty, or to change or modify the obligations so made, and when it is so conclusively shown that the subject-matter of the claim now set up was embraced in the scope of the submission to the commission organized under said treaty; and the award having been made, such award should not be dis-

turbed without indisputable proof of the injustice thereof; the principle of *res adjudicata* ought to apply to this claim.

It may be added that taxes legally assessed are a charge upon the land taxed, and it is in the nature of a proceeding *in rem*, and that under the laws of Washington Territory the remedy to be pursued in the collection of taxes upon the refusal of the owner of the lands is by sale of the lands subject to such taxes; and in case no sale can be effected, it is the duty of the county to purchase the lands for the amount of the delinquent taxes, (see section 20, page 335 of Laws of Washington Territory, 1854.) In this case, however, the company were adjudged by the commissioners to have no legal title, and in their award were directed to convey to the United States no title, but all their possessory rights and claims without any covenants of warranty or title whereby every lien and charge held by the United States or any of its Territories became extinguished by merge in its own title.

It is therefore insisted that the said proviso does not and should not defeat the payment of the money appropriated for the fulfillment of the obligations assumed under the provisions of said treaties, and that a refusal to pay such award would be a violation of one of the most solemn forms of obligations entered into by one government with another.

As to that portion of the bill rendered and filed with the Secretary of State claiming \$34,243 25 as penalties for the non-payment of said taxes, it is only necessary to direct attention to the proviso in said appropriation act, which provides that all taxes legally assessed and still unpaid shall be extinguished by the said company, or the amount of such taxes shall be withheld. The penalties are no portion of the taxes assessed, and therefore not embraced in the terms of such proviso; it is proper, however, to add, in connection with this branch of the case, the following narration of facts: The company having, as heretofore stated, for several years paid the taxes assessed against their lands, although protesting and insisting that there was no legal authority for such assessment for the purpose of having a judicial determination of such rights. In the year 1859, the company appeared before the board of county commissioners of Pierce County and objected to the excessive valuation and to the right to tax at all, desiring a judicial examination of the question of the liabilities of the lands that had been in their occupation and possession in 1846 to be assessed to them for taxation. The objection was overruled, and the tax was ordered to be levied upon such lands at a valuation of \$1 per acre. From this order an appeal was taken to the district court of Washington Territory and there affirmed, from whence the cause was taken to the supreme court of the Territory, in which court the order of the county commissioners was affirmed in the year 1862. From this judgment a writ of error was presented to the Supreme Court of the United States, which court, at its December term, 1867, without any decision upon its merits, dismissed the writ of error on account of a defect in the writ. In the mean time an injunction was granted enjoining the collection of any taxes that might be assessed against the lands, which suit was continued, by the mutual consent of all parties, until the question of the right of taxation so raised should be determined. In the taxes for which the claim is made are those claimed to have been assessed in 1859, and since up to and including the year 1869, the year in which the commissioners made their award, before whom the company urged the same question upon the taxes they had paid prior to the year 1859. The parties having failed to obtain the decision of the Supreme Court upon that point, therefore, so long as the proceeding was pending, there could be no return made of taxes as delinquent, and the penalties charged could not attach. It is evident that the payment of taxes was all that was contemplated originally by Congress. It would, under the circumstances, be unconscionable to compel the payment of more than the taxes as legally assessed, and there is no rule of construction which can construe a statute providing for the payment of one sum to include other sums.

WASHINGTON, May 1, 1871.

SIR: We have the honor to inclose certified statement of the amount of taxes due from the Puget Sound Agricultural Company to Pierce County, in Washington Territory. By the act of Congress appropriating money to pay the balance due said company, the amount of taxes due by said company is to be withheld to meet such indebtedness.

We respectfully request to be notified of your action in the premises.

Mr. Poland's address is St. Johnsbury, Vermont; that of Mr. Garfield, for the present, Olympia, Washington Territory.

With great respect, your obedient servants,

S. GARFIELDE,
LUKE P. POLAND,
Attorneys for Pierce County.

Hon. HAMILTON FISH,
Secretary of State.

Statement of delinquent taxes due Pierce County, Washington Territory, by the Puget Sound Agricultural Company, on 161,000 acres of land, from the year 1859 to 1868, inclusive.

GREAT BRITAIN.

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Year.	Delinquent taxes.	Number of acres.	Value of land.	Total assessment against land.	County tax.	School tax.	Territorial tax.	Road tax.	Total tax.	Total tax with 275 per cent. added.	Total taxes with 175 per cent.	Total amount for each year.
1859	Puget Sound Agricultural Company.	161,000	\$164,000 00	\$164,000 00	\$600 00	\$319 97	\$40 00	\$402 00	\$1,451 98	\$5,444 92	.....	\$5,444 92
1860	do	161,000	161,000 00	151,000 00	644 00	322 00	40 26	402 51	1,408 78	With 250 per ct. 4,930 73	.....	4,930 73
1861	do	161,000	201,250 00	201,250 00	805 01	402 50	201 15	402 50	1,811 16	With 225 per ct. 5,886 27	.....	5,886 27
1862	do	161,000	201,250 00	201,250 00	1,006 25	402 50	201 15	201 25	1,811 25	With 200 per ct. 5,433 75	.....	5,433 75
1863	do	161,000	201,250 00	201,250 00	800 00	400 00	200 00	400 00	Government tax 369 25 Total tax with 150 per cent. 2,213 75	Total tax. 2,162 25	\$5,946 18	5,946 18
1864	do	161,000	201,250 00	201,250 00	1,006 25	402 50	402 50	402 50	Total tax. 2,213 75	Total tax with 150 per cent. 5,334 37	.....	5,334 37
1865	do	161,000	201,250 00	201,250 00	1,508 75	402 60	805 20	402 60	3,120 15	With 125 per ct. 7,020 33	.....	7,020 33
1866	do	161,000	201,250 00	201,250 00	1,500 37	603 75	603 75	402 50	3,119 37	With 100 per ct. 6,238 74	.....	6,238 74
1867	do	161,000	215,400 00	215,400 00	1,409 75	603 75	704 88	402 50	3,120 88	With 75 per ct. 5,461 54	.....	5,461 54
1868	do	161,000	210,110 00	210,110 00	1,610 00	603 75	805 00	402 50	3,421 25	With 50 per ct. 5,131 87	.....	5,131 87
1869	do	161,000	201,250 00	201,250 00	1,610 00	603 75	805 00	402 47	3,421 22	With 25 per ct. 4,276 52	.....	4,276 52
	Total amount due											61,305 22

TERritORY OF WASHINGTON, County of Pierce, ss:

I hereby certify that the foregoing is a true and correct transcript of the delinquent tax rolls, "so far as relates to the delinquent taxes of the Puget Sound Agricultural Company," of Pierce County, Washington Territory, with the percentage added thereto according to law, as fully and amply as the same appears of record in my office. In witness whereof I have hereunto set my hand and affixed the seal of the said Pierce County, Washington Territory, on this the 11th day of April, A. D. 1871.

JOHN LATHAM,

Auditor Pierce County, Washington Territory.

No. 239.

Mr. Akerman to Mr. Fish.

DEPARTMENT OF JUSTICE,

August 7, 1871. (Received August 9.)

SIR: Your letter of the 1st instant presents a question arising under the act of February 21, 1871, making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1872, and for other purposes. The last of the appropriations in that act is as follows:

The pay to the government of Great Britain and Ireland, the second and last installment of the amount awarded by the commissioners under the treaty of July one, eighteen hundred and sixty-three, in satisfaction of the claims of the Hudson's Bay and of the Puget Sound Agricultural Company, three hundred and twenty-five thousand dollars in gold coin: *Provided*, That before payment shall be made of that portion of the above sum awarded to the Puget Sound Agricultural Company, all taxes legally assessed upon any of the property of said company covered by said award, before the same was made, and still unpaid, shall be extinguished by said Puget Sound Agricultural Company; or the amount of such taxes shall be withheld by the Government of the United States from the sum hereby appropriated. (16 U. S. Stat., 419.)

Attorneys for Pierce County, Washington Territory, have transmitted to you a certificate of John Latham, auditor of Pierce County, Washington Territory, under the seal of the commissioner's court of that county, that a certain annexed paper is a true and correct transcript of the delinquent tax-rolls so far as relates to the taxes of the Puget Sound Agricultural Company of Pierce County, Washington Territory, with the percentage added thereto according to law, as fully and as amply as the same appears of record in my office. The paper annexed purports to be a statement of delinquent taxes due to Pierce County, Washington Territory, by the Puget Sound Agricultural Company, on one hundred and sixty-one thousand acres of land, from the year 1859 to 1869, inclusive. These taxes are distributed under the heads of county tax, school tax, territorial tax, and road tax, the whole amounting to \$27,062 64; and there are additions of various percentages, running from twenty-five per cent. on the tax of 1869 to two hundred and seventy-five per cent. upon the tax of 1859, raising the total to the sum of \$61,305 22. No explanation is given in the certificate or annexed paper of the reason for these additions. But it is probable that they are claimed as due for the delinquency of the tax payer.

You request my opinion as to whether the law requires the retention in the Treasury of the amount of the said original taxes and of the additions thereto.

The appropriation above quoted is in fulfillment of a stipulation in the treaty of July 1, 1863, which, after providing for a decision of the claims of the company by commissioners, engages in the fourth article that the sums awarded shall be paid in two installments, within specified times, "without any deduction whatever." (13 U. S. Stat., 652.) If this proviso is to cause the payment of a less sum than the amount awarded, it will produce a breach of the treaty, and make the country responsible to the foreign power for such a breach. A statute which may have such consequences should receive the strictest construction allowable under established rules. Not denying the right of Congress to repeal a treaty or any provision of it, so far at least as to control the action of the Executive in relation to it, yet I think that a statute which may have that effect should be held to mean no more than its language necessarily imports.

Under this rule, when the term *taxes* is used in such an act of Con-

gress, without explanation from the context or other noticeable circumstances, it must be understood to mean taxes under the laws of the United States—that is, taxes known as national taxes, in distinction from State or Territorial taxes.

When the Government is both a debtor and creditor of the same party, Congress might think it no substantial, though a literal, violation of an international covenant to deduct what is due to this Government from what this Government owes to the other party. But that Congress meant that the Government of the United States should become a tax collector for a Territorial county, and should execute this office by breaking a treaty with a foreign power, is not to be inferred from language which will bear any other interpretation.

If it were intended that this money should be withheld for the benefit of Pierce County, Congress would probably have directed that it should be paid the treasury of that county. But no such direction appears in the statute. The provision is that the amount of such taxes shall be withheld from the appropriation—that is, shall be kept in the Treasury of the United States—a very fit place for taxes assessed by the United States, but not for taxes assessed by Pierce County.

I am not informed whether any United States taxes were in fact assessed upon the property of the company. But it is hardly possible that the company could have had interests of great magnitude within the United States for the last ten years without liability to national taxes; and Congress might have inserted the proviso out of abundant caution, without knowing whether a claim for such taxes existed in fact.

I do not overlook the fact that Territory is a creation of Congress, and sustains to the General Government a relation different in many respects from that sustained by a State. Nevertheless, its taxes are so different from the taxes of the United States, in the authority which immediately imposes them, in the agencies which collect them, and in the purposes to which they are applied, that Congress cannot reasonably be supposed to have intended to embrace them under the general name "taxes" in such a statute as that under consideration.

I have not examined the questions of the regularity and sufficiency of the certificate from the auditor of Pierce County; of the validity of the county's claim for taxes, or of the validity of the assessed penalty; or whether the taxes, if valid at all, constitute a general debt of the company, or binds alone the property once occupied by it, and now recognized as belonging to the United States; because the construction which I have felt obliged to put upon the proviso in question makes such examination unnecessary.

I am, therefore, of the opinion that neither the tax nor the penalty which Pierce County is said to claim from the company should be withheld, and that no taxes should be withheld under the proviso except such as may be found to have been legally assessed upon the property of the company by the Government of the United States.

Very respectfully, &c.,

A. T. AKERMAN.

No. 240.

Mr. Hartley to Mr. Fish.

TREASURY DEPARTMENT,
Washington, D. C., September 2, 1871. (Received September 4.)

SIR: I have to acknowledge the receipt of your letter of August 28, inclosing a copy of the opinion of the Attorney General on the question

of the amount of taxes due from the sum appropriated for the payment of an award to the Puget Sound Agricultural Company. You ask to be informed whether any tax for the use of the United States, as imposed by any act of Congress, has been legally assessed upon any of the property of that company covered by the award in question.

I herewith transmit in reply a copy of a letter from the Commissioner of Internal Revenue, to whom the subject was referred for report.

In view of the result of the Commissioner's investigation, I am enabled to state that this Department is not informed of any unpaid assessment of tax due the United States, against the property of the Puget Sound Agricultural Company.

Respectfully, &c.,

J. F. HARTLEY,
Acting Secretary of the Treasury.

Mr. Douglass to Mr. Boutwell.

TREASURY DEPARTMENT,
Washington, D. C., August 31, 1871.

SIR: Yours of the 28th instant, inclosing letter of the honorable Secretary of State, with the opinion of the Attorney General upon the question "what taxes if any are to be withheld by this Government from the sum appropriated for the payment of an award to the Puget Sound Agricultural Company, by the act of February 21, 1871, required by the treaty with Great Britain of July 1, 1863," is acknowledged.

You request me to state whether any such taxes have been legally assessed and remain unpaid to the United States. I perceive by reference to the second page of the "opinion of the Attorney General," that your inquiry relates to taxes assessed before the "award" was made. It not appearing at what time the award was made, I have caused investigation to be made with reference to the entire period covered by the operations of the internal revenue system, and find that no taxes have been assessed during that period on the property of the Puget Sound Agricultural Company which remain unpaid at the present date.

Respectfully,

J. W. DOUGLASS,
Commissioner.

[MEMORANDUM.—For the correspondence of the consul of the United States at Hong-Kong, see CHINA.]

No. 241.

G R E E C E .

Mr. Tuckerman to Mr. Fish.

No. 160.]

LEGATION OF THE UNITED STATES,
Athens, January 14, 1871. (Received February 8.)

SIR: I have the honor to acknowledge the receipt of the volume of Consular Regulations; also of your dispatch of the 10th ultimo, No. 55.

The festivities of the Greek New Year took place yesterday. The diplomatic body assisted at mass at the cathedral and from thence proceeded to the palace, where the King and Queen gave an official audience, and the customary address to the throne was delivered, to which Her Majesty responded.

The eventful year which has just closed has not been without political and moral importance to Greece. In April last, the affair at S. Nierme, near Marathon, whereby four foreigners, including two members of legations, were massacred by brigands, created an intensity of feeling in this community which cannot wholly die out, and may lead to that unity of public sentiment here which is essential to the thorough removal of the scourge of brigandage in Greece and the Turkish provinces. On the other hand, through misapprehension and misrepresentation of the facts of the case, this nation has been most unjustifiably assailed, especially by the government and press of England, until a bitterness of feeling has been excited here which is not likely to strengthen the friendly relations heretofore existing between Great Britain and Greece. The result of the legal examination, which involves an Englishman in the circumstances which led to the tragical ending, is not satisfactory to the English minister, and further complications are likely to grow out of this protracted affair.

Two changes of ministry have occurred during the year. That of Mr. Deligeorgis gave promise of important reforms, and did effect much in the successful pursuit of brigandage, but the minister was without popular support. The idea that the King would, in face of this last fact, authorize the dissolution of the forthcoming Parliament, subjected the sovereign to very general and severe criticism. The return of Mr. Coumoundouros to power has restored the popular equilibrium, and the chief political organs now assert that the kingdom, has "returned at last to strictly constitutional government," the present cabinet being supported by a parliamentary majority.

With the popularity which now surrounds the new minister, and the great opportunity which is afforded for positive and independent action in the important questions of brigandage, finance, and internal development, it may be expected that Greece will this year take some important steps in the right direction.

The National Exposition of Industry, which has just closed, was a creditable evidence of the material resources of the kingdom, and which a supply of outside capital would largely develop.

Attention has been given to the subject of commercial relations with the United States. The reduction of our import duty on dried currants will lead to the increase of the export from Greece, but it still seems desirable that a further reduction of the duty should be made in view of the fact that the existing rate is equal to about double the cost of the fruit in this market, and also because Great Britain is seriously suggesting the entire removal of the duty at her ports. This would divert shipments from the United States.

The reports of our consuls at Patras, Zante, and Cephalonia encourage the belief that much more can be done than ever has been done in direct importations from the States, and practical efforts will be made to increase these commercial relations.

I have, &c.,

CHAS. K. TUCKERMAN.

No. 242.

G U A T E M A L A .

Mr. Hudson to Mr. Fish.

No. 38.]

LEGATION OF THE UNITED STATES,
Guatemala, July 31, 1871. (Received September 4.)

SIR: I have the honor to acknowledge the receipt of Department circulars Nos. 10 and 11, dated June 13 and 16, 1871, respectively.

Referring to your No. 11, I have to state that all the foreign residents in this republic seek the protection of this legation, because none other is respected. During the late insurrection it became a necessity for me to extend it to them, to make their treaty rights be respected by the government and by the revolutionists. Among the number were British subjects, acting as agents of sugar and coffee estates.

In employing the friendly offices of this legation, I have been careful not to give just cause for offense; but at times I have had to meet arbitrary acts with unyielding firmness. The authorities have in no instance objected to my action, but approved my course and claimed the protection of the legation. The insurgent party also claimed the protection of the legation. Protection has been given to President Cerna's family, and his ministry and their families. Also the family of President Granadas and to his partisans.

The granting these friendly offices to all parties has largely improved the position of this legation, and has drawn to its sustenance all the foreign residents and better class of natives. There is now not a doubt but my worst fears, as communicated to you in my several dispatches, would have more than been realized had its influence and active efforts to prevent been less. Humanity called for the part I bore, and where there was so much to be justly apprehended, I believe my conduct would be excused, if not fully warranted, in acting in that behalf.

I have the honor, &c.,

SILAS A. HUDSON.

No. 243.

Mr. Davis to Mr. Hudson.

No. 35.]

DEPARTMENT OF STATE,
Washington, September 6, 1871.

SIR: Your dispatches, numbered 37, 38, and 39, have been received. The efforts which you have made for the general protection of life and property, during the recent hostilities in Guatemala, meet with the approval of this Department. You are authorized to use your friendly offices, unofficially, in behalf of foreigners who are not represented in Guatemala, whenever it can be done without offense to the government to whom you are accredited. Meanwhile you should bear in mind that the protection authorized by circular No. 11 is defined, and differs from the friendly offices which may be exercised in behalf of citizens, other than those of Switzerland.

I am, &c.,

J. O. B. DAVIS,
Acting Secretary.

No. 244.

Mr. Fish to Mr. Hudson.

No. 36.]

DEPARTMENT OF STATE,
Washington, October 9, 1871.

SIR: Your dispatch No. 40, of the 20th of August last, has been received. It appears to request instructions as to whether you are officially to interpose for the protection of foreigners in Guatemala. It is contrary to the practice of this Department to sanction such interference, unless it shall have been requested by the government of a friendly country, which may not have a diplomatic representative in that where the protection may be required, and unless the government of the latter country shall consent to the interposition. As you do not specify the nationality of the foreigners whom you propose to protect, the Department is unable to say how far the rule referred to may be applicable to them. The recent changes in the government of Guatemala have been important and appear to have been warmly welcomed by you. Such changes, however, are not, on the whole, so infrequent in Spanish American countries as not to require caution on the part of our representatives in the expression of their opinion at the place of their residence, and especially in interfering in political affairs abroad without express instructions. The policy of this Government has usually been to require its diplomatic agents to abstain from all partisanship. A contrary course would create a precedent which would be pleaded by foreigners who might be disposed to interfere here. It has ever been deemed best for the diplomatic representatives of the United States to refrain from even giving advice in the political affairs of foreign countries, unless that advice shall be asked for. Whatever may be our predilections for persons and parties, how much soever we may exult in the preponderance of those whom we favor, the Executive Government here has no authority to make any pledge for their support, unless this shall be expressly sanctioned by Congress, which would probably deliberate much before giving any such sanction. Your activity and energy, however, during recent critical events in Guatemala, deserve commendation.

I am, &c.,

HAMILTON FISH.

No. 245.

HAWAIIAN ISLANDS.

*Mr. Peiros to Mr. Fish.*

No. 93.]

LEGATION OF THE UNITED STATES OF AMERICA,
Honolulu, December 27, 1870. (Received January 18, 1871.)

SIR: The United States steamer *Saginaw*, Commander Sicard, was totally wrecked on Ocean Island, which lies about 1,200 miles northwest of this, on the 29th of October last. All hands were saved, (ninety-eight persons in all,) together with three months' provisions at quarter rations. Water, seals, fish, birds, and turtle are found there. The party are sheltered by tents made of sails and spars saved from the wreck.

It is with much sorrow I have also to report the death by drowning of Lieutenant Talbot, executive officer of the *Saginaw*, and seamen John Andrews, of Boston; Peter Francis, native of Manila, and James Muir, of Glasgow, Scotland, who were upset by the surf from a boat sent from Ocean Island, November 18, to Honolulu for the purpose of obtaining means for the relief of the ninety-three persons then remaining on that island.

The boat, after being at sea thirty-one days, during which the persons on board suffered much from cold, wet, hunger, and some sickness, but not for want of water, arrived off the coast of the Island of Kanai, one of this group, at a place called Kaliki-Kai during the night of December 19, and, while attempting to land, got into the breakers and upset, with the melancholy result mentioned. The sole survivor of the boat's crew, William Halford, of New York, coxswain of the captain's gig, succeeded in reaching the beach by drifting of the boat toward it, the action of the surf having in the meanwhile righted her.

By Coxswain Halford's personal exertions there was saved from the boat a long tin case, containing dispatches and letters from Commander Sicard and others, also barometer, chronometer, and other articles. But Commander Sicard's instructions to Lieutenant Talbot, with requisitions for supplies for their relief, were unfortunately lost in a tin case containing books, charts, &c. The want of those papers has obliged me to work somewhat in the dark while sending necessary rescue and relief to those at Ocean Island.

The natives were very kind to Halford, particularly one by the name Peter, who furnished him with food, clothing and horses to proceed to Hanalei, about five miles distance from Kaliki-Kai.

The humane services of Peter should be recognized by the United States Government.

Arriving at Hanalei, Halford called on the Hawaiian sheriff, Mr. Wilcox, and Mr. Bent, planter. All of them then went to Kaliki-Kai, where an inquest was held over the bodies of those saved, namely, Muir and Lieutenant Talbot. The latter had drifted ashore during Halford's absence, and was tenderly cared for by the natives there. There were bruises on the forehead of Lieutenant Talbot, received, as Halford thinks, from a blow of the boat, and which caused him to let go his hold of the same after being upset by the heavy breakers. The bodies were put into good pine coffins and transported to Hanalei, where the Episcopal burial service was read by Mr. Kenney, an appropriate hymn sung by two daughters of late Mr. Johnson, American missionary, and were then interred, with tears and heartfelt sympathy of the spectators, side by side, in one grave, near where a seaman was buried in 1867, belonging to the United States ship *Lackawanna*, Captain Reynolds.

Coxswain Halford sailed from Hanalei in the schooner *Waiola*, Captain Dudoit, on the evening of 20th of December, and arrived at the United States consulate, Honolulu, at 11 a. m., December 24, where I happened then to be conversing with the acting consul, Mr. Perkins.

After hearing Halford's story, we deemed it highly important to act in concert with promptness and energy, and do what the situation seemed to demand for the succor and rescue of the unfortunates remaining on Ocean Island. Our first promptings were to obtain a steam-vessel, but there was but one in port, the *Kilauea* of 450 tons, double-decks, belonging to Hawaiian government, engaged in the service between the islands of the group. No application was made for her on learning that her fuel capacity was insufficient for the voyage desired. This statement proved to be false in fact, as the sequel proved.

The schooner Kona Packet, of 85 tons, fast sailer, was instantly chartered of her owners, Messrs. O. A. Williams & Co., at \$850 per month, victualed and manned at their expense, for an unlimited time.

At 6 p. m., December 24—only seven hours after hearing Halford's story—the Kona Packet sailed direct for Ocean Islands, having on board thirty days' full rations of provisions for one hundred men, a good present supply of clothing, blankets, medicines, vegetables, water, and other stores. She will probably reach the sufferers in about eight days, as the winds are generally fair. I wrote by her to Commander Sicard, informing him that we had also chartered for his relief the fast-sailing bark Comet of 450 tons, and that she would sail on the 26th or 27th of December with duplicate supplies, so as to provide against all contingencies of loss of either vessel named, or detention by calms, head-winds, currents, &c. The charter of the Comet was, however, subsequently canceled, for reasons hereinafter made apparent.

Receiving an intimation, late on Christmas night, that His Hawaiian Majesty had expressed consent for the Kilauea steamer to go to Ocean Island, provided I made application for the vessel; and being credibly informed that her fuel or coal capacity *was* sufficient for twenty-five to thirty days' steaming, I immediately addressed a letter to the minister of the interior, asking for the use of that vessel. That noble gentleman (Mr. Hutchison) gave immediate affirmative reply, to the effect that preparations for the voyage should commence on the steamer at daylight next morning; that she should be victualed, manned, and supplied with 250 tons coal, (burning but 7 or 8 tons each twenty-four hours,) and dispatched with such supplies for the shipwrecked men as I thought best to send in her, and be ready on or about 5 o'clock p. m., December 26. All was completed as above promised. The steamer left at 6 p. m., under command of the celebrated Captain Long, formerly commanding American whale-ships.

The Kilauea is well provided with extra whale-boats, and carries duplicate supplies of provisions, clothing, &c., and of those put on board the schooner, also some other articles, such as, on reflection, was thought would be needed. Efforts were made to procure and send a surgeon, to assist Mr. Frank, but did not succeed for want of time.

Previous to procuring the Kilauea, I held consultation with Captain Floyd, of the mail steamer Moses Taylor, which vessel arrived on 25th instant, from San Francisco, as to her being sent to the relief of the persons on Ocean Island. The measure was found to be impracticable, for many cogent reasons, not necessary now to be stated. Captain Floyd was ready and desirous to be of service in the matter.

Coxswain Halford is a tall, athletic man, of great endurance, and intelligent. He is staying at my house, but will take passage on to-morrow's steamer for San Francisco. He deserves well of his country, and, no doubt, promotion and reward will be given him. He is well in health, but is afflicted with salt-water sores on his body. He reports all his boat companions as having suffered likewise.

When the boat was off Kaliki-Kai, there was no food on board except four spoonfuls of desiccated potatoes; the original stock of that article, he says, saved them from starvation. I have taken his deposition or statement in writing, and herewith inclose the same; the main facts therein stated I have embodied in this dispatch.

I feel much indebted for aid and assistance received from Judge A. S. Hartwell, of Hawaiian supreme court. He is from Massachusetts, and commanded a brigade of troops, from that State, in South Carolina during the civil war.

I am so wearied by the labor and excitement of the three days past that I may be excused if I have omitted any item of importance in this dispatch.

In a private letter to me from Commander Sicard, dated Ocean Island, November, 1870, (no day named,) he says :

No doubt your surprise will be extreme to hear of our sad ending here, after having finished up all our Midway Island work, and got off, as I supposed, for San Francisco; but we cannot tell what a day may bring forth. My errand to this island was purely one of humanity, I not feeling willing to leave these parts without seeing if there might be some shipwrecked persons on the island, whom I might be able to relieve. Mr. Talbot will give you all the particulars. I wish particularly to recommend him to your kind offices. He is a brave, zealous, gentlemanly young man, and you will like him, I am sure. He volunteered at once to go to Honolulu in the boat, and throughout this affair he has been of the very greatest assistance to me. Will you please give him the benefit of your advice and assistance in the matter of chartering a vessel to come to our relief, (in case the Jamestown or some other man-of-war is not in port.) It is very important the arrangements made should be as economical to the Government as possible. I must close now, as I have a great deal of writing to do.

Believe me, most truly, yours,

MONTGOMERY SICARD.

I have promised in behalf of the United States Government that all expenditures on the Kilauea consequent upon her voyage to Ocean Island shall be reimbursed to the minister of the interior on her return.

Inclosed herewith is copy of my note to the latter, before alluded to, marked No. 2.

Telegraph dispatch to you from this legation is transmitted to the office at San Francisco by kind hands of Captain R. S. Floyd. I thought it very important a correct version of the whole sad affair mentioned herein should go forth at once to the country, and the best and the worst of the facts received correctly by the friends at home.

I am, &c.,

HENRY A. PEIRCE.

Extract from Morrell's voyage.

OCEAN OR BYERS'S ISLAND, July 12.

We crossed the meridian of 180°, the *ne plus ultra* of longitude, in latitude 28° 32', and on the 13th we landed on Byers's Island, situated in latitude 28° 32' north, longitude 177° 4' east. This island is moderately elevated, and has some bushes and spots of vegetation. It is about four miles in circumference, and has good anchorage on the west-southwest side, with fifteen fathoms of water, sand and coral bottom. There are no dangers around this island, excepting on the southeast side, where there is a coral reef running to the southward about two miles. Sea-birds, green turtles, and sea-elephants resort to live about its shores. Fresh water may be had here from the south-southwest side of the island, which is of volcanic origin.

No. 1.—*Statement of William Hulford concerning the loss of the United States steamer Saginaw, &c.*

We sailed from Midway Island at 5 o'clock p. m., October 28. The vessel struck between 3 and 4 a. m., October 29. It was good weather, but cloudy and dark; speed two and a half to three knots; fires banked; top-sails and jib set; running with fair wind.

Captain Sicard came on deck at 2 a. m., and was sitting aft when the vessel struck. The officer of the deck, Mr. Gast, (who relieved Mr. Coles at Honolulu,) had just informed the captain of "breakers ahead." The captain ordered top-sails to be lowered; just at that moment the vessel struck. Top-sails were ordered to be furled. The crew were paralyzed with fear, and the orders were not obeyed. All hands were put to work to get out boats and save provisions and other things. At break of day saw a sandy island about one and a half to two miles off. Worked all day carrying things to the

shore. Removed two very sick men ashore and four or five others slightly ill. For nearly three weeks from the time of the wreck, all hands were employed getting up tents, saving provisions and rigging, making fresh water with the apparatus, and decking over and preparing the captain's gig to go to Honolulu. The launch was lost when the vessel struck. The first and second cutters, the second badly damaged, the dingey, and an old metallic boat of the contractors were left at Ocean Island.

The *Saginaw* began at once to break up. The gig was raised about 10 inches, midships tapering fore and aft, and a wooden deck was placed over all, with places for men to row, and with movable hatches. Volunteers were called to go in the gig to Honolulu. Lieutenant Talbot; Peter Francis, quartermaster belonging to Manila; John Andrews, seaman, of Boston; James Muir, seaman, of Glasgow, Scotland, and William Halford, (myself,) coxswain of the captain's gig, volunteered to go in the boat to Honolulu. There were put into the boat ten breakers of water, five days' rations of bread in a tin case, sealed; ten days' rations of bread in a black canvas bag, which was mostly spoiled on the passage; about two dozen small tins of preserved meats; five tins, five pounds each, desiccated potatoes, to which we attribute being saved from starvation; two tins cooked beans—could not be used, causing dysentery; three tins boiled wheat, the same; one ham, eight or ten pounds; six tins preserved oysters; two five-pound pieces dried beef; one dozen tins Lima beans and peas; four or five pounds of butter; one gallon of molasses in keg, leaked out; twelve pounds of white sugar, also lost by wet; four pounds tea; four or five pounds coffee, both spoiled. The boat was furnished with a small tin cooking-apparatus for boiling, with oil and wick. Five days out we lost all light and fire, and no means of making either; no dry tinder or wood, but had flint and steel. About five or six days before making Kawai, we succeeded in getting a light with glasses taken from the opera-glass. Suffered much from wet, cold, and want of food. When we left Ocean Island, November 18, at noon, we ran to the north to latitude 32°, then took the westerly winds and ran east to the longitude of Kawai, as Mr. Talbot supposed, but it proved ultimately that we were not near that longitude by over a degree. We then stood south. Had heavy weather while running eastward; hove to, with sea-anchor, twice; last time lost it; made another drag with three oars, which was also lost; then made another drag with two oars, with square-sail, by crossing them; that lasted for three turns of bad weather; the last time it broke adrift, and all was lost of it. Mr. Talbot was ill seven or eight days with diarrhea; got better, but still suffered from fatigue and hardship. He was somewhat cheerful the whole passage. Muir and Andrews were sick two or three weeks. Francis was always well. The deck was leaky. The boat was furnished with chronometer, compasses, sextant, opera-glass, charts, Bowditch's Navigator, almanac, barometer. Did not make land so soon by a week as we expected, the first land we saw was Kankulana Rock, near Nihau Island, on Friday a. m.; December 16. We stood to north by east, Nihau Island in sight, but to windward, all day Friday. During that night and Saturday we stood northeast by north; on Saturday night headed east, wind south-southeast. Sunday morning wind allowed us to head southeast. Saw Kawai a great distance off on Saturday night. Sunday night we were off Hanalei Bay; there hove to, head to north-westward, wind having hauled that night to the westward. We lay to there until 11 p. m. My watch on deck. Called Mr. Talbot; told him the night was clear—I could see the entrance to Hanalei Harbor. He ordered the boat to be kept away, and steered for the entrance; got near it, when it clouded up and became dark. Hove to again to the north-westward. At 1 a. m. (night) called my relief. Andrews and Francis came on deck; also Mr. Talbot. After I went below the boat was again kept away for a short time, when she was again hove to, it being dark. At a little past 2 a. m. on Monday, December 19, she was kept away for the third time. I remained below until I felt the boat getting into shoal water. I awoke Muir, and told him it was time we went on deck. He did not go, but I did. Just as I got in the cockpit a sea broke aboard abaft. Mr. Talbot ordered to bring the boat by the wind. I hauled aft the main sheet. Francis was at the helm, and brought the vessel up to the wind. Just then another breaker broke on board and capsized the boat. Andrews and Francis were washed away, and never seen afterward. Muir was still below, and did not get out or clear until the boat was righted, when he gave symptoms of insanity. Before the boat was righted by the sea, Mr. Talbot was clinging to the bilge of the boat. I called to him to go to the stern of the boat and there get up on the bottom. While attempting to do so he was washed off. When he sank he was heavily clothed and much exhausted. He made no cry. I succeeded in getting on to the bottom, when I stripped myself of clothing. Then a sea came and righted the boat. It was then that Muir put his head up the cock-pit, when I assisted him in getting on deck. Soon after another breaker came and upset her again, she going over twice. The last time she came upright and head on to the breakers. We then drifted toward the shore at a place called Kaliki Kai, about five miles from Hanalei. I landed, with the water breast high, and took with me a tin case of dispatches and letters. There was a tin box on board, with its cover broken, containing navigation books, charts, &c.; also, Cap--

tain Sicard's instructions to Lieutenant Talbot, and other papers, among which were Muir's and Andrews's discharge papers, they having shipped November 15 for one month. They belonged to the contractors, as their employes, previous to that time. Also, mine and Francois's transfer papers and accounts, destined for Mare Island navy-yard. The above-named box, with everything not lashed, fell into the water when we were first upset. I landed about three a. m. Saw no one until daybreak, when, seeing some huts, I went to them and got assistance to get the boat on to the beach. I had previously, by making five trips to the boat, succeeded in bringing ashore the long tin case aforementioned, chronometer, opera-glass, barometer, one ship's compass, boat's binnacle and compass, and also assisted Muir to the shore. He was still insane; said but little, incoherently; he groaned a good deal. I was much exhausted and laid myself down to rest until sunrise, when I looked for Muir and found him gone from the place I had left him in. Soon after I found him, surrounded by several natives, but he was dead, and very black in the face. During the day I got some food and clothing from the natives, one called Peter, and after resting myself, Peter and I went on horseback over to Hanalei to Sheriff Wilcox and Mr. Bent. We returned with the sheriff and coroner to Kaliki Kai, where an inquest was held on the bodies of Lieutenant Talbot and Mr. Muir, the former having drifted ashore just before I left Kaliki Kai for Hanalei. Mr. Talbot's forehead was bruised and quite black, apparently from having struck the boat or wrecked stuff. After the inquest the two bodies were taken to Hanalei, put into coffins, and buried the following day in one grave, at a place where a seaman belonging to the United States steamer Lackawanna was buried in 1867. Funeral services were performed by Mr. Kenney, by reading the Episcopal burial service, and two Miss Johnsons, daughters of an American missionary, singing hymns.

Before I left Kawai for Honolulu it was reported by a half-white, who had been left to watch the shore at Kaliki Kai, that Andrews's body had also come ashore and was taken care of. Captain Dudoit, of the schooner Waiola, offered to bring me direct to Honolulu, leaving his return freight at Waimea for another trip. I accepted, through Mr. Bent, and we sailed for Honolulu the evening of Tuesday, December 20, a. m. arrived at Honolulu at 11 a. m. December 24, bringing with me the effects saved as before mentioned. I went, on landing, immediately to the United States consular office, where I saw him and the minister resident and told them my story.

I add to the foregoing that when we sighted land, and talked of being safe, Lieutenant Talbot said he was fully prepared for death, and felt sure that God would take him to Himself if we had not got through, and the like of that.

WILLIAM HALFORD.

William Halford, subscriber of the foregoing statement, deposes and says that the same was by him made to Henry A. Peirce, esq., United States minister resident; that the same was read over to him, and that the contents thereof are true of his own knowledge.

Sworn and subscribed to before me at Honolulu, Hawaiian Islands, this 27th day of December, A. D. 1870.

HENRY A. PEIRCE,

Minister Resident of the United States of America.

LEGATION OF THE UNITED STATES,

Honolulu, December 25, 1870.

SIR: In consequence of the wreck of the United States steamer *Saginaw*, reported to me last Saturday, I immediately chartered a small schooner to go with supplies for the relief and rescue of ninety-three persons belonging to her at Ocean Island.

In view of the importance of their immediate relief, and as a precaution against her non-arrival, from wreck, calms, and head-winds, I have the honor to request the assistance of His Hawaiian Majesty's government steamer *Kilauea* to proceed immediately to that island for same purpose. All necessary expenses incurred therefor will be reimbursed by the United States Government. I address this to you to save time, which is so important, and for the reason the vessel named is in charge of your department.

I am, &c.,

HENRY A. PEIRCE.

His Excellency F. W. HUTCHISON,
His Hawaiian Majesty's Minister of the Interior.

No. 246.

Mr. Peirce to Mr. Fish.

No. 98.] LEGATION OF THE UNITED STATES OF AMERICA,
Honolulu, January 18, 1871. (Received February 15.)

SIR: I have the honor and the pleasure to inform you of the return to this port, on the 14th instant, of Hawaiian steamer Kilauea, bringing Commander Sicard, officers and crew of the late United States steamer Saginaw, wrecked at that island, as reported in my dispatch No. 93. The number thus rescued is eighty-eight, including eleven men of the contractors' party, previously at work at Midway Island. All have arrived in excellent health. No casualties have occurred, except the four persons drowned by the upsetting of the boat at the island of Kawai.

Inclosed herewith is a newspaper slip, Captain Long's account of the Kilauea's voyage to Ocean and Midway Islands. Also copy of a letter addressed by this legation to the Hawaiian minister of foreign affairs, expressing thanks for the prompt and valuable aid rendered by the government steamer, as aforementioned, and requesting an account of the expenditures incurred for that object, with a view to their reimbursement by the United States Government. No reply to it has been received by the legation. But Captain Sicard, at an interview with the minister of the interior, held at request of the latter, was furnished with the account of disbursements, amounting to about \$2,900; twenty-nine hundred dollars for nineteen days' services of the steamer, and which will be paid immediately. No charge whatever would have been made by the Hawaiian government for the Kilauea but for its straitened pecuniary resources.

Commander Sicard, with the officers and men of his command, has concluded to take passage to San Francisco in the mail steamer of the 28th instant, and not in the United States vessel Nyack, as mentioned in a previous dispatch as being his intention.

The body of John Andrews, naked, drifted ashore at Kaliki Kai, Kawai, on the afternoon of December 20, and was buried in a suitable manner at Hanalei, the following day, in a grave beside that of Lieutenant Talbot and William Muir. They repose, in a beautiful, picturesque spot, on the rising slope of a hill which overlooks the charming valley of Hanalei, with a view of the ocean beyond.

I am, &c.,

HENRY A. PEIRCE.

No. 1, (with dispatch No. 98.)

[From the Hawaiian Gazette of January 18, 1871.]

THE TRIP OF THE KILAUEA.

MR. EDITOR: At your request, I take pleasure in giving a brief account of the trip of the Kilauea to Ocean Island, for the relief of the crew of the United States steamer Saginaw, wrecked on that Island. By direction of the minister of the interior I assumed charge of the expedition on Monday, the 26th of December, and, as you aware, sailed on the afternoon of that day. During the first four days we experienced very light winds, so light in fact that the speed of the vessel was considerably retarded for the want of a proper draught in the furnaces. On the night of 31st December we took strong trades, which freshened by Sunday, January 1, into a severe northeast gale, with thick weather and rain. On the night of January 2 the vessel was hove-to for twelve hours, with a view of sighting Midway Island. I had been unable, on account of the thick weather, to obtain meridian observations for the two days previous, and therefore,

although aware by my reckoning that we could not be a great distance from the island, was unable to define its exact position. On the morning of the 3d, the weather being favorable, I found by observation that I was to the leeward of Midway Island, and, being anxious to reach Ocean Island that day, the vessel was immediately headed for the latter island. We were, on this day, so unfortunate as to be unable to obtain a meridian altitude, and at 2 o'clock p. m., by double altitudes, found ourselves twelve miles to the northward of the island. The course was at once changed for the island. At 3.45 p. m. sighted the breakers on the reef which surrounds the island. The next object sighted was the flag-staff which had been erected by the crew of the *Saginaw*, the island being so low that it was not visible from the masthead until long after the surf and flag-staff were seen. At half-past four we had reached sufficiently near the island, and, as the anchorage was some five miles along the reef from where the vessel approached, I thought it prudent to lay off until morning, having, in the mean time, communicated with those on the island by dipping the flag and firing rockets, to assure them that we had come to their relief. On the morning of the next day, 4th of January, we anchored at the mouth of the lagoon, (a boat from the island having previously come off to the vessel.) After sounding for some distance around the vessel, from a boat, to assure myself of the safety of the anchorage, I went on shore, finding every one there, fortunately, well, and rejoiced is hardly the expression for the state of their feelings for the timely relief. I found them on rations of one ounce of flour or beans, and seal-meat, or sea-fowl, (albatross,) besides the few fish they were able to catch in the lagoon. During the 4th and 5th we were engaged in taking the crew and their baggage, stores, &c., on board. The articles saved from the wreck of the vessel were not considered by Captain Sicard or myself as of sufficient value to warrant the detention which would be necessary in shipping them.

On the 5th, as the last boats were coming off from the Island, the schooner *Kona Packet* arrived. None of the stores were transferred from her, as there was amply sufficient on board of the steamer. Captain Sicard directed the captain to return to Honolulu.

On the evening of the 5th we got under way from Ocean Island, and being uncertain of the quantity of coal necessary for the return trip, thought it expedient to take a quantity on board at Midway Island, where we arrived on the morning of the 6th. During that day and the following, with the assistance of the *Saginaw's* crew, we were enabled to get forty tons of coal on board. Fortunately we were able to leave on the evening of the 7th, as I was assured by those who had lived on the island that the strong westerly wind which we experienced the next morning would have kept us there for at least a week. Our passage from Midway Island was extremely pleasant, having had favorable winds and good weather. We sighted Kauai at 11 a. m. on the 13th, and reached Honolulu at 4.30 p. m. on the 14th, having made the passage from Midway Island in seven days, and the whole voyage in nineteen, passing over a distance of two thousand three hundred and fifty miles, and being detained at Ocean and Midway Islands four days. The average speed on the voyage was six and a half knots. The best day's run was two hundred and thirty miles.

Yours, truly,

THOS. LONG.

On the arrival of the *Kilauea*, on Saturday afternoon, the esplanade presented a scene seldom witnessed. An immense crowd of people, anxious to learn the result of her mission, congregated on the wharf even before the steamer entered the harbor. As she neared her dock, the crowd, unable to control their feelings at the sight of the weather-beaten faces on board, gave vent to hearty cheers, which were returned lustily from the steamer. The inquiries as to whether "all were saved" being answered in the affirmative, cheers were again renewed. The crowd did not disperse until after the rescued crew had safely landed on *terra firma*. The whole party, including the men who had been stationed at Midway Island, numbered eighty-eight persons.

No. 2, (with dispatch No. 98.)

LEGATION OF THE UNITED STATES OF AMERICA,
Honolulu, January 17, 1871.

SIR: The Hawaiian government steamer *Kilauea*, having returned from Ocean Island, bringing Captain Sicard and the officers and crew of the late United States steamer *Saginaw*, unfortunately wrecked on that island, I have the honor and pleasure, in behalf of my Government and those individually who have been so timely, humanely, and nobly rescued from further peril, to present their grateful thanks for the use of the *Kilauea*, and the successful result of her voyage.

As Captain Sicard is desirous of settling his accounts, anticipating an early departure, I have to request that you will please furnish to me an account of the items of

expenditure incurred for the voyage of the Kilauea, together with the proper vouchers for the same. To avoid unnecessary expense, may I ask you to cause such articles to be returned as were not used and that were purchased on that condition?

Other articles may perhaps be taken back by consent of sellers, after allowing them a small discount or a commission.

It is desirable to receive the several bills of parcels, showing net amount due thereon, and the expenditure or purchase authenticated in the usual manner.

Renewing assurances of high consideration and great regard, I am your excellency's obedient servant,

HENRY A. PEIRCE.

His Excellency C. C. HARRIS,
His Hawaiian Majesty's Minister of Foreign Affairs.

No. 3, (with dispatch No. 98.)

DEPARTMENT OF FOREIGN AFFAIRS,
Honolulu, January 24, 1871.

SIR: In answer to your letter of the 17th instant, and in accordance with your request therein made, I am directed to inclose herewith an account of the items of expenditure (\$2,965) incurred for the voyage of the Kilauea, approved by the minister of the interior.

Hoping that the same will be satisfactory, I have the honor to be, with the highest respect, sir, your most obedient servant,

WM. JARRETT,
Secretary.

His Excellency HENRY A. PEIRCE,
Minister Resident of the United States.

No. 247.

Mr. Peirce to Mr. Fish.

No. 99.] LEGATION OF THE UNITED STATES OF AMERICA,
Honolulu, January 23, 1871. (Received Feb. 18.)

SIR: In the belief that no law has as yet been enacted by Congress for the establishment of a monthly line of steamships for transporting the United States mails between San Francisco and the Australian colonies, and in view of the beneficial importance of that measure to the interests of the United States in this hemisphere, and particularly so in our commercial and political relations with this archipelago, and that much depends upon the designation by law and proper selection of the terminal and way ports of the proposed mail service; and thinking the information herewith transmitted may have some weight in determining the several questions above alluded to, I have the honor to inclose—

Copy of an unofficial letter addressed to myself by his excellency J. M. Smith, Hawaiian minister of finance, of date January 16, 1871, containing much that is interesting and suggestive in regard to the subject-matter, worthy of consideration by the United States Postmaster-General and others.

Printed slips from Taranaki Herald of November, 1870, containing terms of a recent contract between Mr. Vogel, postmaster general of New Zealand, and Mr. A. Neilson, for mail service from and to New Zealand and San Francisco.

Slips of Hawaiian Gazette of January 4, 1871, containing correspondence between the Hawaiian government, Mr. Neilson, and Mr. Vogel—same subject.

Slips of Hawaiian Gazette of January 11, 1871. Remarks on the

Australian steamship line to Honolulu; and on the correspondence above named. Also a statement of comparative distances from San Francisco to Honolulu, Feejee, and New Zealand, and San Francisco to Sydney, via Honolulu and Feejee; and articles entitled "Across the Pacific," "Hall on the rampage."

From my stand-point, and with full knowledge of the subject, I am strongly of opinion that the mail route of the steamers should be fixed by law to run on the great circle or shortest line from San Francisco to Honolulu, thence to Feejee Islands and Sydney, New South Wales, and return the same way; New Zealand to be rejected as a terminal port, on account of small population, and Sydney selected as having ten times more population and commerce, and proposing to grant large subsidy for the service. Besides, the region about New Zealand and thence to Australia is tempestuous in the general character of its weather, while the route from Feejee to Sydney is comparatively free from severe storms.

New Zealand would, no doubt, ultimately have a connecting line to Feejee if the main line is established by the United States in the manner proposed.

Two other things I beg leave to suggest:

The agent of the contractors' steamers at Honolulu should be a citizen of the United States, for the reasons named in my dispatch No. 57.

The existing contract for mail service between San Francisco and Honolulu should, if possible, be annulled, and the work and subsidy of \$75,000 per annum be arranged so as to transfer both to the new line from San Francisco to Honolulu and Australia.

I have, &c.,

HENRY A. PEIRCE.

(Inclosures.)

No. 1.—Letter from J. M. Smith, minister of finance, to H. A. Peirce' January 16, 1871.

No. 2.—Slips from Herald at Auckland, New Zealand.

Nos. 3 and 4.—Slips from Hawaiian Gazette of January 4 and 11, 1871.

No. 1.—Unofficial.

DEPARTMENT OF FINANCE,
Honolulu, January 16, 1871.

MR. MINISTER: The establishing of a proper steam service between San Francisco and Sydney is a matter of so much importance that I gladly give you such information as may be in my power to communicate.

It is assumed by steamer-owners and those interested that to run steamers on the route large subsidies will be required, and that the countries whose ports are connected or visited by the boats should join their subsidies on the same line.

The Eastern Australian and New Zealand colonies, whose interests in this Pacific route are identical, as compared with the route occupied by the Peninsular and Oriental Company, have so far joined together as to subsidize the line of English steamers at present running from Sidney, via Auckland, to Honolulu, and connecting here with the American line of Messrs. Holladay & Brenham. Their subsidies (New South Wales £10,000 and New Zealand £15,000) are granted for five years to H. H. Hall, esq., (United States consul at Sydney,) for a monthly service. His steamers commenced running in April last, and have made their trips regularly up to this time, transferring their passengers and mails at this port to the San Francisco steamer.

The steamers employed are the Wonga-Wonga and City of Melbourne; both are iron screw propellers, 700 tons English measurement, able to steam on the round voyage ten knots per hour, and of accommodating one hundred first-class and one hundred steerage passengers. The two first trips of these steamers, their passengers having been about one hundred and fifty persons, paid a very handsome profit on the cost of the voyage.

out at present the passengers having fallen to fifty or sixty persons; they are not paying their way.

Mr. Hall is now backed by the Australian Steam Navigation Company, whose boats are chartered for the first six months, but they now (as they have idle boats) are desirous of joining him to maintain the service. They propose, if New Zealand breaks off from the present contract, to secure sufficient subsidies from the Australian colonies to keep their steamers upon the route. These steamers on their voyage from Honolulu to Auckland follow the shortest line, but in returning keep well eastward of the Friendly Islands, in order to avail themselves of the southeast and northeast trade-winds on the northerly passage, sighting always Fanning's Island.

Mr. Hall has a contract with Messrs. Holladay & Brenham to transport his mails, passengers, &c., between San Francisco and Honolulu. The distances are as follows:

	Miles.
San Francisco to Honolulu	2, 103
Honolulu to Auckland	3, 817
Auckland to Sydney	1, 290
Total	7, 210

Their contract time is:

	Days.
San Francisco to Honolulu	10
Honolulu to Auckland	16
Auckland to Sydney	5
Total	31

The route followed by Hall's steamers fully accommodates the New Zealand colonies, and for their connection with San Francisco cannot be bettered; but not so the Australian colonies, inasmuch as the direct line between Honolulu (which lies in the shortest line between San Francisco and Sydney) and Sydney is seven hundred and sixty-six miles, or three days' steaming, shorter than through Auckland.

In order to obtain for both colonies, therefore, the shortest time, the line must branch at or near the Feejee Islands.

But though the colonies combined upon subsidizing the Hall line as the most immediate realization of their wishes to have steam connection with San Francisco, yet the necessity of a subsidy from Congress to help them develop the route with first-class steamers, and the ambition of New Zealanders to have their islands the terminus of the main line, has prevented a mutual agreement with the same company to run their ships.

New Zealand has recently entered into an agreement with Mr. Neilson, an agent of Messrs. Holladay & Brenham, to pay £40,000 per annum for a first-class line of steamers which shall make Port Chalmers, the most southern of their ports, the terminal point of their voyages. It enforces the vessels, after reaching Auckland, the most northern port, to make a coasting voyage of one hundred hours, touching at Wellington and Lyttelton, to Port Chalmers.

The largest commercial city of the islands, and the nearest port to Sydney, is Auckland.

This agreement has been entered into by Mr. Vogle, their postmaster general, under the general provisions of their postal laws of 1858, and it must be submitted to their parliament, now in session, for approval and adoption. The expectation of its adoption is based upon the compromises of the contract regarding the wants and interests of the parliamentary district, by making the steamers touch at the several ports on the coast.

Though this agreement, in its first promulgation, has been cheered by their press, it seems impossible that it will be accepted for its full term of years, since it throws upon their revenue a burden unnecessarily large, to secure a benefit that can be obtained at a cheaper price; because of their large public debt and small population of 250,000. Their parliament will remember that they already have a steam service which gives them in the main the benefits claimed to arise out of the new scheme, and that the proposals for the same service have been made by a strong London company at £24,000 per annum.

Their scheme also will not meet with any favor or co-operation from the Australians, although the contract mentions branch lines from New Zealand ports as one of the contingencies of the agreement. Their population of two and a half millions and large trade with San Francisco cannot be made subordinate to the strait-jacket of a terminal line to New Zealand.

The projected route of the steamers (at choice of the contractors) from San Francisco to Auckland, via Tahiti, will also in greater degree be incompatible with the interest

and wishes of the Australians; for although the distance between the two ports, via Tahiti or via Honolulu, is upon the chart about the same, the up voyage from Auckland through Tahiti would be lengthened several days by reason of steaming the whole passage directly in the teeth of the trade-winds. As the direct route between San Francisco and Sydney lies near the Hawaiian and the Feejean Islands, and not at all near the Society Islands, a detour to these latter islands would not help matters in their estimation.

The distance from San Francisco to Tahiti is.....	Miles 3,650
Tahiti to Auckland.....	2,210
Auckland to Sydney.....	1,250

Total..... 7,110

The distance from San Francisco to Honolulu is.....	Miles 2,100
Honolulu to Feejee.....	2,710
Feejee to Sydney.....	1,020

Total..... 6,440

or 720 miles in favor of the Honolulu and Feejee route. It is not necessary with large steamers, except for the purpose of connecting with a branch line to Auckland, to stop at Feejee as well as at Honolulu on a voyage to Sydney.

The commercial interests of the United States combine primarily with those of Australia, inasmuch as by its greater population and trade over New Zealand it will give the largest result, by reason of steam connection with San Francisco.

Nearly all the passengers and freight that go upon the steamers at present running is either to or from Australia.

That the steamers ought to be run upon the routes indicated by the speediest and most natural track of traffic and travel, and thereby trade be fostered, rather than be forced into impracticable channels, is a proposition to be taken into reasonable consideration by the governments whose subsidies will be given to this new Pacific enterprise. In the disagreements of the colonists, and their impending failure to combine upon one and the same route, it will be within the province of Congress to secure the co-operation of both, as well as that of the Hawaiians, by designating in their subsidy grants (if they mean to secure the route to their own ships) the route which shall be followed.

Taking for granted that Sydney will be made the terminus, for the reason that these steamers ought to become self-supporting, or nearly so, the best route is that of San Francisco to Sydney, via Honolulu and Auckland, or via Honolulu and Feejee, with a branch line to Auckland.

If either of these routes obtains assistance from Congress, the commercial interest, as well as mail convenience of all the countries mentioned will cause the subsidy to be combined eventually upon it.

Beyond the fact that Honolulu is upon the most direct line, there is another reason why Congress should cause it to be named as a way port when this subject comes up for their consideration. They have caused for several years past a subsidy of \$75,000 to be paid for a steam service between San Francisco and Honolulu, and the policy which instituted that subsidy is still both sound and reasonable in favor of its continuance. They have already possession of one-third of the distance contemplated by the new service, which in fact is but an extension, and this extension was provided for, as possible, in the contract made with Messrs. Holladay & Brenham.

Now that the question arises to cause it to be done, it would seem unwise to abandon the original purpose of making Honolulu a connecting port, and unnecessary to pay for double service across the same part of the ocean.

On the other hand, it can hardly be made to appear that to abandon Honolulu in favor of Tahiti or the Feejees, it is a reasonable way of promoting the welfare of either American steamships or American commerce. The Tahitian Islands number but 200 souls all told, of whom about 600 are white or mixed blood, and their exports to California are bounded by a few thousand oranges yearly. The same is true of the Feejee groups in regard to white population, while they have nothing to offer in the way of trade.

To make either of these groups the only way station for the steamers will, in effect be to cause their permanent occupation of the route to depend upon the largeness of the subsidies, and the ability of the governments granting them to continue granting them always.

This government, Mr. Minister, as you are aware, are authorized by the legislative assembly to contribute a small subsidy to any line that can assure us a permanent connection with San Francisco and Australia, and although the colonies would prefer

these islands as a way station, neither their preferences nor our subsidy will avail to make it so, if congressional subsidies to an American steamship line is adverse or hostile to such an arrangement.

I have the honor to be, yours truly,

J. MATT. SMITH.

His Excellency H. A. PEIRCE,
United States Minister Resident.

No. 2, (with dispatch No. 99.)

(From the *Taranaki Herald* summary for November mail.)

AUCKLAND, NEW ZEALAND.

NEW MAIL SERVICE WITH ENGLAND.—MEMORANDUM OF THE POSTMASTER GENERAL.— IMPORTANT CONCESSIONS TO THIS COLONY.

Through the courtesy of the Hon. Julius Vogel, postmaster general, we are enabled to publish the following memorandum relative to the terms of a new contract for a mail service between New Zealand and San Francisco:

"The postmaster general records with much gratification that, after considerable difficulty and protracted negotiation, he has succeeded in arranging the terms of a new contract for a mail service between New Zealand and San Francisco, with Mr. A. Neilson, the confidential representative of the North Pacific Transportation Company, (Messrs. Holladay & Brenham, San Francisco,) between which company and Mr. Webb, of New York, there has been an amalgamation of interests, and an arrangement entered into by which Mr. Webb's ships are to perform the service.

"The following is an outline of the arrangement entered into:

"The contractors are to establish a line of mail steamers, under the style and title of 'The United States, New Zealand, and Australian Line;' the steamers to be employed are to be the Nevada, the Nebraska, and the Dacotah, with the proviso that the Moses Taylor may be temporarily used in the event of accident to any one of the three vessels named; and, further, that should any of the three vessels become unserviceable, others are to be substituted, to be approved by the postmaster general. The contract vessels are to be, in every respect, first-class mail and passenger steamers, and to be maintained as such.

"The contract is to be for ten years, subject to the condition that, within six months from the arrival of the first boat at Wellington, (say about the beginning of September,) the assembly may decide that the duration of the contract shall be for three years only; but the government are to use their best endeavors to secure that the ten years' period be accepted by the assembly.

"The service first commenced is to be a temporary one; and in the contract it is to be described as 'line No. 1.' Three alternative lines are provided for—one of which will have to be finally adopted, under conditions set forth in the contract, and which the postmaster general proposes now to indicate. To all the four lines one feature is common—that the main boat runs from San Francisco to Port Chalmers, calling at Auckland, Wellington, and Lyttelton.

"*Line No. 1.*—A steamer to leave San Francisco once in every calendar month, commencing on the 16th of February next, and to proceed to Port Chalmers, calling at Auckland, Wellington, and Lyttelton, and to return from Port Chalmers to San Francisco once in every calendar month, calling at Lyttelton, Wellington, and Auckland. Between San Francisco and Auckland two ports may be visited; these ports to be selected by Mr. Neilson, but to be within the Hawaiian, Society, Navigator, or Feejeean groups. The ports so selected are to be visited for coaling purposes only, and there is an express prohibition against any connection being effected between either of the coaling ports and any port in New Caledonia or in Australia. For this line the payment is to be £40,000 for twelve complete services; and any subsidies received from Australia or New Caledonia are to be equally divided between the New Zealand government and the contractors.

"Within six months of the date of arrival at Wellington of the first contract vessel, the postmaster general may give to the contractors notice that he adopts as the alternative of the initiatory line (No. 1) the line described in the contract as—

"*Line No. 2.*—This line is for a service precisely as described under the heading 'line No. 1,' but thirteen complete services are to be performed within the year, instead of twelve, and the contractors are to establish a branch steamer between Auckland and Sydney, and any other branches they please from New Zealand ports, but they are not to be at liberty to run any branch steamers except from New Zealand ports. For line No. 2 the payment is to be £60,000 for thirteen complete services, including the branch line; and all subsidies received, whether from the Australian colonies or from New Caledonia, are to belong wholly to the New Zealand government.

"If within six months of the arrival of the first contract boat at Wellington the postmaster general does not give notice to adopt line No. 2, the contractors may elect to carry out line No. 3 or line No. 4.

"Line No. 3 is similar to line No. 1, only that the contractors are to receive the subsidies from the other colonies, less 10 per cent. to be paid to the New Zealand government. They are to be at liberty to establish branches to any Australian colony or to New Caledonia from New Zealand, but they are not to run any branch boats except from New Zealand ports. The payment for line No. 3 is to be £40,000, the contractors receiving all subsidies paid by other colonies, and retaining the amount less 10 per cent., which they are to pay to the New Zealand government.

"Line No. 4 is the same as the others in regard to the main boats running to Auckland, Wellington, Lyttelton, and Port Chalmers; but the contractors are to be at liberty to run branches from the Feejee Islands to Australia, and to make such arrangements as they please respecting subsidies from colonies other than New Zealand. The payment for this line to be £30,000 per annum.

"Time.—In each of the four cases described, the contract time between San Francisco and Auckland is to be twenty-four days; and the contractors are to use all diligence to perform the distance between Auckland and Port Chalmers within one hundred hours, subject to a penalty of two pounds per hour for unnecessary delay. If the government adopt line No. 2, the contract time between San Francisco and Sydney is to be thirty days. If the contract time is exceeded, the contractors are to pay a penalty of two pounds per hour for such excess, unless a reasonable cause can be shown for it; and they are to receive a bonus of two pounds for each hour less than contract time within which any service is performed between San Francisco and Auckland, or San Francisco and Sydney.

"The postmaster general is to have power to make and to vary time tables. The vessels may be detained twenty-four hours in New Zealand and twenty-four hours in Sydney. They may also be detained forty-eight hours in San Francisco whenever it may be necessary so long to await the arrival there of the mails from Europe.

"The contract vessels are to be exempt from all port, light, or wharfage dues or charges in New Zealand. On board each vessel, first-cabin passages are to be provided, without charge, for a mail agent and his assistant.

"The contractors are to enter into bonds to the amount of £25,000 for the due performance of their contract.

"The contractors agree, subject to a penalty of £1,000 per annum, to procure from the United States an exemption from all the charges for mails between San Francisco and London, and between New York and San Francisco, which are now imposed under the convention between the United States and Great Britain. The contractors also agree to use their best endeavors to secure a concession under which wool, the produce of any colony, contributing to the mail subsidy, and the fiber of the *Phormium tenax*, produced in New Zealand, shall be admitted into the United States duty free.

"These are the principal features of the contract. Some details have still to be settled between the contractors and the postmaster general. Until it is known what the United States Government may decide to do in respect to some of the open questions, it may not be desirable that specific offers should be made to the Australian colonies. The contract contains ample provision for securing payment of subsidies from other colonies. It may be observed that the post-office act, No 2, passed last session, and the terms of the convention proposed to the United States (which Mr. Neilson announces that the authorities of that country have agreed to) have been signally useful in smoothing over one of the most difficult features of the contract—that of dealing with non-subsidizing colonies.

"The postmaster general, in accordance with the resolutions of the assembly, made it a condition in every case that the main-line steamers should come on to New Zealand, and should call at Auckland, Wellington, Lyttelton, and Port Chalmers. There was great difficulty in procuring the consent of the contractors' representative to the main-line boats visiting so many New Zealand ports; and the arrangement in respect to time between Auckland and Port Chalmers, with penalty for delay, is the very best that the postmaster general could succeed in effecting. The representative of the contractors declined to make any arrangement as to Napier, and whether the contract vessels will call at that port must depend upon future negotiations.

"Every one of the lines will substantially comply with the conditions laid down by the assembly in the resolutions of last session, but line No. 4, in permitting the diversion of the Australian traffic at the Feejees, will be least in accordance with the spirit of the resolutions. Unfortunately, it may be taken for granted that if the colony does not adopt line No. 2, the contractors will adopt line No. 4. They would by it, in all probability, obtain much larger subsidies from the Australian colonies than by the New Zealand route. In the case of the other lines, if the vessels call at the Feejees, they are to do so for coaling purposes only. The main steamer is to proceed to New Zealand, and no branches are to be run except from New Zealand ports.

"A subsidy of £60,000 may seem to be a large one, and especially so as compared

with the amount indicated in the resolutions of the assembly. Care has therefore been taken to give the assembly time to decide whether the colony shall adopt line No. 2, or leave the contractors their choice between line No. 3 and line No. 4; but, as the point is certain to be immediately discussed, the postmaster general takes the opportunity of remarking upon it, without, however, committing himself to a conclusion as to which choice will be recommended to the assembly.

"Line No. 2 is, in effect, not widely different from the service contemplated by the resolutions. It is true that the amount named in the resolutions is £40,000, and that the assembly understood that subsidies from other colonies would go in reduction of that sum; but it must be remembered that for the £60,000 thirteen complete services a year will be secured, and also a branch line to Sydney; while the line for which the assembly approved of paying £40,000 would have been merely a line to New Zealand. The Australian colonies would have had to arrange for branch services, and would have contributed to the line only as far as New Zealand; under line No. 2, the colony will be able to offer to lay down the mails in Sydney. If line No. 2 is adopted, the £60,000 a year will be reduced by the amount of all subsidies received from Australian colonies; and if the concession as regards the convention between the United States and Great Britain be secured, (the contractors binding themselves in a penalty of £1,000 per year to obtain it,) the postages in England and in Australia would alone amount to a very handsome contribution from the Australian colonies for the carriage of their mails.

"In any case, the Australian colonies should unitedly pay not less than from £25,000 to £30,000 a year; and supposing the concession above mentioned to be secured, New Zealand would save a very large sum per annum in regard to her own mails, for the imperial government would hand over to the colony the postages collected on the other side, but which are now detained to defray the charges payable by Great Britain to the United States under the convention.

"It must be added, that the adoption of line No. 2, by placing the whole service in the hands of New Zealand, would secure that the traffic between Great Britain and the United States on the one hand, and the Australian colonies on the other, should permanently pass through New Zealand instead of passing by it, as would be the case were the contractors enabled to adopt line No. 4, and so to run branch boats from Feejee to Australia. Still further, if the colony should adopt line No. 2, not only will it include connection with Sydney from Auckland, but, by line of steamers already existing, there would practically be direct communication between Melbourne and the main line at Dunedin, Lyttelton, and Wellington.

"The postmaster general believes that the contract times are such that it would be impossible for the Australian colonies not to come in and contribute fairly in reduction of the £60,000 subsidy. The contractors have assisted in maturing arrangements by which the journey between San Francisco and New York, and from New York to San Francisco, will be performed in five days, instead of seven; and a steamer is always to be ready at New York to start with the mails for England as soon as they arrive. The transit from San Francisco to London will thus be effected in fifteen days; while from Sydney to San Francisco the time will be thirty days. Thus mails from London to Sydney, or from Sydney to London, would be delivered in forty-five days, and mails to or from Melbourne would be received and delivered in forty-seven days. Those times, indeed, would probably be materially reduced, for the contractors state that they would be able to save two days, should it be worth their while to do so.

"Supposing New Zealand adopts line No. 2, the government would be able to choose, under the thirteen-services condition, either Sydney or Melbourne as the port at which to make the times correspond with those of the boats of the Peninsular and Oriental Company; or the government would be able to give either Sydney or Melbourne an absolute fortnightly service to England. Whichever of those courses might be adopted, it is impossible to avoid the conclusion that there would be a mail service to which public opinion in the Australian colonies would demand that contributions should be made; while it is also impossible not to conclude that, as a passenger route, the service would be unequalled.

"There are many other considerations to be taken into account in choosing between the services. Line No. 2, with contributions from the other colonies, and with the English postages which would be sent free by the United States, foregoing the transit charges, should not cost much, if any, more than £25,000; while, under similar circumstances, line No. 4 would cost about the same amount, with far less advantages. Line No. 3, with nearly equal advantages, would cost about the same, but with less risk of costing more, through the colonies not contributing. But the contractors have the option, if line No. 2 is not adopted, of choosing between line No. 3 and line No. 4, so that No. 3 cannot be counted on. It will be for the assembly to decide whether line No. 2 involves so much risk as to make it desirable to be prepared for the substitution of line No. 4, which, after all, would be a very good service. If or any of the other lines would give New Zealand a service which would cost much less than the Panama service, or than the Suez service (with intercolonial and interprovincial distributing boats) has cost, while, as compared with either, it would confer immeasurably greater advantages, direct and indirect.

"The contractors propose to charge £85 for the through passage to England, (including railway fare across the American continent,) and to leave to each passenger the option of proceeding direct or delaying at different places as long as may be desired. The postmaster general is informed—although it is not a condition of the contract—that a uniform rate to England is to be charged from all parts of New Zealand.

"Should effect be given to the provision for the admission duty free into the United States of New Zealand flax, and of wool the produce of New Zealand, or of any colony contributing toward the service, another inducement to the Australian colonies to contribute will be supplied.

"It can scarcely be doubted that the establishment of the line will lead to the development of the New Zealand coal-fields, in which case it would be no exaggeration to regard the subsidy as being more than recouped to the colony by the money payments for its coal, and by the employment of labor and capital which would be afforded.

"The time-table fixed for the commencement of the service is as follows: to leave Port Chalmers, Sydney, (if required,) and London on the 1st of each month, Auckland on the 7th, and San Francisco on the 16th. This will enable letters dispatched from London on the 1st of the month to be delivered in Port Chalmers on the 15th, and in Sydney on the 16th of the following month. There will be about a fortnight for answering, and replies leaving Port Chalmers or Sydney on the 1st will reach London on the 15th of the following month, thus giving a 'course of post' of about one hundred and five days, or three months and a half. The same will apply to answers to letters sent from Port Chalmers or Sydney. In the case of Wellington or Auckland, the time here stated would be reduced by several days.

"In conclusion, the postmaster general would observe that the contract appears to be one of an eminently satisfactory nature. It will stand the test of meeting the requirements of the whole colony as a first-class mail, passenger, and commercial service, and if tested as regards its effect upon the much-discussed separate interests of the different parts of the colony, the conclusion must be that no service more likely to do justice to those interests could be obtained, even if one could be devised.

"JULIUS VOGEL.

"AUCKLAND, *November 24, 1870.*"

The following description of the vessels to be employed is taken from the American Lloyd's for 1870:

NEBRASKA.—The steamship Nebraska, 2,143 tons register, built in 1865, under official supervision, specially surveyed, and classed as extra A 1 in 1869; built of oak and hackmatack; an iron frame, three decks and beams; 15 feet draught; half brig-rigged; dimensions, 370 feet length; breadth, 39 feet; depth, 26 feet; beam engines, 81-inch cylinder; stroke of piston, 12 feet; double-planked with 4-inch oak; made 154 knots on her trial trip.

NEVADA.—The steamship Nevada was built at the same time as the Nebraska; her tonnage is the same, and she is in every respect a similar vessel, except that her cylinder is 4 inches larger.

DACOTAH.—The steamship Dacotah, 2,153 tons register, was built in 1865, and specially surveyed and classed in 1869 as extra A 1. She is similar in every respect to the Nebraska. At present she is employed in the trade between New York and the West Indies.

MOSES TAYLOR.—The Moses Taylor is 1,354 tons register; was built in 1857, and was resurveyed and classed as extra A 1 in 1869.

No. 3, (with dispatch No. 99.)

[From the Hawaiian Gazette of January 4, 1871.]

We publish in this issue the full correspondence in relation to the subsidy placed at the disposal of the King's cabinet and privy council, for the encouragement of steam communication between this kingdom, New Zealand, and the Australian colonies. Want of space compels us to defer the publication of our comments thereon until next week.

HONOLULU, *October 24, 1870*

SIR: Referring to our conversation of this morning, in which I very fully explained to you the present position of the Australian steamship question, and the perfect understanding that has been arrived at between the North Pacific Transportation Company and William H. Webb, of New York, by which a line of powerful steamers will be put into operation between San Francisco and Australia as soon as the necessary details as

to ports of call, coaling stations, &c., can be arranged, to effect which purpose I am at present on my way to the colonies, I now have the honor to submit, in accordance with your excellency's suggestion, one or two points on which it is requisite I should be informed, prior to my departure, and without which my instructions will not permit me to make definite arrangements in the colonies to provide that Honolulu shall be a permanent port of call for the reception of passengers, cargo, mails, and coal.

In so important an undertaking, involving the expenditure of a large immediate outlay, it is of course essential to my principals that they should know upon what they have to depend before taking action. That being so, may I ask your excellency to be pleased to say if it is understood that the good faith of your government will be considered to be pledged to the paying of the subsidy recently voted by the legislature, so soon as they shall put on a permanent line of steamers, which shall call and remain at Honolulu a sufficient length of time to take on board all the cargo that may be ready for shipment?

I am aware that, under the terms of the law, your excellency cannot definitely promise the subsidy for more than two years. For the reasons which I fully explained to you, it will be obvious that the subsidy from the various governments concerned should all be granted for a similar period. As our contract with the colonies will be for five years, it is, I very respectfully submit, a reasonable proposition that your government should agree to propose and use their influence to carry a measure to extend the subsidy to \$25,000 per annum for a further period of three years. It is of course understood that you will be prepared to supply all the accommodation in respect to wharfage dues, lights, &c., which have hitherto been so liberally promised by your government.

The frank and satisfactory verbal explanations which I had with your excellency this morning give me the assurance that His Hawaiian Majesty's government will soon have to congratulate themselves upon the establishment, on a permanent basis, of a line of first-class steamers, such as have never been seen in this port, and which will speedily create a traffic which will be fruitful of important results to the future of these islands.

By the credentials which I presented to your excellency, you will of course understand that I am acting in this matter in the interests of the North Pacific Transportation Company, and William H. Webb, which are now consolidated.

I have the honor to be, your excellency's most obedient servant,

WM. M. NEILSON.

His Excellency FERD. W. HUTCHISON,
Minister of the Interior.

OCTOBER 25, 1870.

SIR: In answer to your communication of October 24, touching the Australian steamship question, I have to say that the minister of finance, in whose department the matter more immediately rests, is out of town at present, and the attorney general is on the eve of departure, but I have consulted informally with His Majesty the King, and the minister of foreign affairs, and they concur with me, as I have no doubt will the minister of finance on his return, in saying that it is the intention of government to pay in good faith the subsidy recently voted by the legislature to a line of steamships running hence to the New Zealand and Australian colonies, which shall remain here sufficient time to take cargo which is ready for shipment, and which shall take the cargo at such rates as shall not render it impracticable for producers to avail themselves of that mode of transportation. You are not to understand that we propose to dictate the price of freight, but will pay the subsidy, if our people are able to avail themselves of the opportunity.

With regard to wharfage and other facilities, we see no reason why the same privileges should not be accorded as are now given to mail steamships arriving at this port.

Communications have already been addressed to the minister of finance by Mr. Hall, who is the pioneer in this business, whose efforts the administration regard most favorably, and feel that he (Mr. H.) has strong claims upon it for consideration.

With regard to your second question, as you say, the law gives no authority beyond two years, and a further grant of the legislature would depend upon the value of the service rendered to the material interests of the country. We do not doubt that if it should be made apparent that new markets are opened and property increased by this means, the legislature will be liberal in continuing grants, and the executive government will certainly deem it their duty to urge such a course upon them.

I have the honor to be, your obedient servant,

F. W. HUTCHISON,
Minister of Interior.

WM. M. NEILSON, Esq., *Honolulu.*

NEW ZEALAND, GENERAL GOVERNMENT OFFICES,
Auckland, November 22, 1870.

SIR: I take the earliest opportunity of informing you that I have entered into an arrangement with Mr. Neilson, representing Messrs. Holladay, Brenham & Co., and Mr. Webb, conjointly, for putting upon a permanent footing the service which has already been begun, under Mr. H. H. Hall's auspices, between New Zealand and San Francisco.

As it was impossible for me to wait, in order to secure your co-operation in the matter, I was not in a position to make any terms with Mr. Neilson as to your government contributing toward the subsidy; and I had no alternative but to allow it to remain an open question whether the vessels of his principals should call at Honolulu.

Let me at the same time assure you that the government of New Zealand are anxious to maintain the direct communication with Hawaii which has been commenced, and which they do not doubt will lead to extensive commercial relations between the two countries.

I have the honor to be, sir, your very obedient servant,

JULIUS VOGEL,
Postmaster General of New Zealand.

The Hon. the MINISTER OF THE INTERIOR,
Hawaii, Honolulu.

DECEMBER 26, 1870.

SIR: I have to acknowledge receipt of your letter of November 22, informing me that you had made an agreement, on the part of the government of New Zealand, with Mr. Neilson, acting as agent of Mr. Webb, of New York, and Messrs. Holladay, Brenham & Co., of San Francisco, for a mail service between your colony and San Francisco. No member of His Majesty's cabinet has received any communication from Mr. Neilson up to this moment of writing, *i. e.*, within one hour of the closing of the Wonga Wonga's mail, but you may rest assured that this government is anxious that direct communication should be established between your province, Australia, and these islands, and that it will give every encouragement possible to secure so desirable a result.

I have the honor to be your obedient servant,

FERD. W. HUTCHISON,
Minister of Interior.

Hon. JULIUS VOGEL, Postmaster General, New Zealand.

HONOLULU, December 27, 1870.

SIR: Since I had the honor of addressing you two months since, I have visited New Zealand, where I have entered into a contract, in behalf of the North Pacific Transportation Company, with the postmaster general of that country, for a line of first-class steam-vessels between San Francisco, New Zealand, and Australia.

Mr. Vogel having shown me a letter which he addressed to you by this month's mail, I am aware that by this time you are in possession of his official notification of the existence of the contract referred to, and of the fact that it is therein provided that the question as to whether Honolulu shall be made a port of call or not has been left to my determination. In order that you may be still further informed on the subject, I inclose you an official printed copy of the contract, and I would specially call your attention to clause 7.

I now have the honor, very respectfully, to inform you that I am *at once* prepared to notify the government of New Zealand, under the power vested in me by the clause aforesaid, that I name Honolulu as the port of call in the Hawaiian Islands, provided that His Majesty's government are ready to guarantee to Messrs. Hackfeld & Co., the North Pacific Transportation Company's agents here, prior to my departure on Wednesday next, that they will pay, subject to such reasonable conditions as may be mutually agreed upon, the subsidy voted by the members of your legislature, to whom it must be a subject of much congratulation that, by means of the wise provision they have made, it is now within the power of the government to secure so effective a line as that which the New Zealand contract provides for.

It would have afforded me much pleasure to have mentioned a longer time in which to decide this matter, but the contract makes it imperative that the first steamer shall leave San Francisco on the 16th of February next. That being so, you will see that the time has at last arrived when decisive action cannot be longer delayed.

You will observe that the principle pervades the whole contract of excluding all non-contributing places from participating in advantages the expense of which they

are not willing to share. It is with all respect that I feel constrained to say that I am bound, in honor and good faith to New Zealand, to see that Honolulu is no exception to so wholesome a rule. It is only fair that I should add that the vote of your legislature is the best possible evidence that the representatives of the people of the Hawaiian Islands desired no such exception in their favor.

I address the communication to you, believing that the subject it refers to belongs to your department. If I am mistaken on that point, would you kindly oblige me by referring to the proper quarter.

I have the honor to be, sir, your most obedient servant,

WM. M. NEILSON.

His Excellency FRED. W. HUTCHISON,
Minister of the Interior.

DEPARTMENT OF INTERIOR,
Honolulu, December 27, 1870.

SIR: I am directed by the minister of the interior to acknowledge receipt of your letter of this date, inclosing printed copy of the contract made by Mr. Vogel, the postmaster general of New Zealand, and yourself on the part of Mr. Webb, of New York, Messrs. Holladay, Brenham & Co., of San Francisco; and to say in reply that he has passed it to the minister of finance, to whose department the matter more properly belongs than to his own, who will no doubt bring it up for the consideration of His Majesty at as early a day as may be convenient.

I have the honor to be, sir, your obedient servant,

CHAS. T. GULICK,
Chief Clerk.

WM. M. NEILSON, Esq.

HONOLULU, *December 28, 1870.*

GENTLEMEN: Referring to our conversation this morning on the subsidy for an Australian steamer, I will state that the government is ready to take into immediate consideration contracts that may be proposed by the agent of the N. P. T. Company, or of any responsible company, whose steam service shall carry out the conditions specified in the appropriation bill, always bearing in mind the relations of Mr. Hall to the service, which he has initiated with great labor and risk to himself, and whom we desire to treat with consideration.

The wording of the subsidy item you are familiar with, as a copy of it has been sent to you from this department.

Speaking for myself, I anticipate that a speedy arrangement may be arrived at, as the establishment of a satisfactory line seems very likely to be made by the countries that are interested in the project.

I remain yours, truly,

J. M. SMITH,
Minister of Finance.

Messrs. HACKFELD & Co.,
Agents North Pacific Transportation Company, Honolulu.

No. 4, (with dispatch No. 99.)

[From the Hawaiian Gazette of January 11, 1871.]

THE AUSTRALIAN STEAM LINE.

We published last week all the correspondence which had taken place between this government, Mr. W. Neilson, and others, on the subject of the line of mail steamers between San Francisco and the New Zealand and Australian colonies. We did so from the fact that Mr. Neilson, had, as we understood, thought fit to publish in the Advertiser of the week previous a portion of the correspondence in question, apparently with the view of demonstrating to the public that this government had shown a most remarkable apathy in grasping the advantages to this country, which he, in his character as agent of a steamship company in San Francisco, most graciously offered it. We are entitled to express this opinion inasmuch as he bitterly denounced the government in a public room of this city, a few hours after his arrival here on his return from New

Zealand. We say, in his capacity as agent of a steamship company in San Francisco, with some little hesitation and misgiving, although we must believe that he showed some authority to Mr. Vogel, the postmaster general of New Zealand, or it is not probable that that gentleman would have negotiated the contract which he undoubtedly did with Mr. Neilson as agent for Messrs. Holladay & Brenham, for the establishment of a steam route between San Francisco and New Zealand. Still it is somewhat remarkable that although Mr. Neilson, in his letter of October 24, represents that he "is acting in the interest of the North Pacific Transportation Company and William H. Webb, which are consolidated," and that Mr. Vogel says, in his communication of November 22, that he "has made an agreement on the part of the government of New Zealand with Mr. Neilson, acting as agent of Mr. Webb, of New York, and Messrs. Holladay, Brenham & Co., of San Francisco," yet Mr. Neilson signed the contract only "for and on behalf and in the name of Holladay & Brenham." To say the least, there is considerable inconsistency in this state of things; but then the gentleman appears to have considered himself the embodiment of the company—president, board of directors, manager, and agent, in fact, sole owner of all the steamers now occupied on the various routes of the company, as well as those belonging to Mr. Webb, now in the harbor of San Francisco. His style of negotiation was remarkably ostentatious; indeed, so far as this government is concerned, negotiation is hardly the proper term; a demand for tribute would be a better way of expressing his mode of procedure.

It is not, however, important at present to ascertain and define Mr. N.'s exact relations to the company (or companies) in question; he may own the "whole concern," or the company may have delegated to him full authority to regulate steam navigation in the Pacific Ocean to suit himself, as the case may be. It is rather our intention at present to call the attention of our readers to the correspondence in question, and point out as clearly as possible the real position of affairs, and to demonstrate that no one here has left anything undone which should have been done to secure the advantages which are sure to follow the permanent establishment of a line of steamers between San Francisco and the colonies, which shall stop here a sufficient length of time to take and discharge freight both ways. Without this latter condition we fail to see the incalculable advantages which would flow in upon us from the establishment of such a line of steamers.

The King's ministers asked the last legislative assembly to place at the disposal of the executive a sum of \$50,000 for the subsidizing of a line of steamers between the colonies of Australia, New Zealand, and this port, to be used at the discretion of the King in cabinet council, to which request that body cheerfully responded, and inserted in the appropriation bill the sum asked for, with the following words attached: "To be paid at the discretion of His Majesty's cabinet, with the consent of the privy council, in sums not exceeding two thousand dollars per month, to any line of steamers running between the ports of Honolulu, Australia, and New Zealand, making Honolulu a terminus or stopping place for receiving and delivering cargo." It will, therefore, be apparent that no appropriation was made directly to a line of steamers, (as has been claimed,) but simply gave authority to the government to contract with responsible parties willing to make this place a port of call, should the advantages likely to accrue from the outlay of a sum of money (large in proportion to our revenue) appear to justify its action. There can be no doubt that the legislature expected care and thoughtfulness in the expenditure of the funds voted, by the cabinet and privy council, and placed implicit trust in their discretion. On so important a subject it behoves the government to see that the faith thus given should not be abused.

What is the history of the matter? Mr. Neilson arrived in this city by the *Moses Taylor*, in October, and on the 24th of that month addressed a letter to the minister of the interior, after a personal interview, in which he states that he represents the consolidated interests of Mr. Webb and Messrs. Holladay, Brenham & Co., but, as we understand, produced no document to show he had authority to act for them. He received an answer from the government assuring him of its wish to establish a permanent steam service between Honolulu and Australia, and giving assurances of their intention to meet the wishes of the legislature, should a reasonable guarantee be given that cargo could be shipped and delivered, and that they did not find themselves left out in the cold on some day that should meet the convenience of the company. While Mr. Neilson was absent on his mission, Mr. Collie, who was well known to have made a tour of the colonies in the interests of Mr. Webb, and was no doubt his agent in the steam business, arrived here and remained some days, but we have been told that he did not make himself known to any member of the government, which, if a fact, does not show great anxiety on his part to receive our co-operation; but however that may be, Mr. Neilson returned to this town on the 24th of December, by the *Wonga Wonga*, bringing with him a printed copy of the contract made between himself and Mr. Vogel, for the establishment of a line of steamers between New Zealand and San Francisco, which copy he transmitted to the government on the 27th, not on the 26th, as printed in the *Advertiser*, giving this government notice that he was prepared to notify the New Zealand government at once that he named Honolulu as a port of call,

calling especial attention at the same time to the 7th clause of the contract, said clause reading as follows :

"7. The said steam-vessels may call at two intermediate places and no more between Auckland and San Francisco and between San Francisco and Auckland, and such two places may be at any of the Hawaiian, Society, Navigator's, or Feejeean Islands, as William Neilson, whose signature is hereto affixed as agent of the contractors, shall think fit and appoint, and such ports, after being appointed, may be altered from time to time by the contractors with the consent of the postmaster general, but not otherwise."

We call special attention to the last clause of the section, which shows clearly that an agreement made by Mr. W. Neilson, on the terms proposed by himself, would have stultified our government, and would justly have rendered them a laughing-stock to the world.

We have seen above that the legislature and government anticipated steam intercourse with both New Zealand and the Australian colonies, the latter being in fact the market in which our planters and farmers are more especially interested. But what shall we say of the document to which the attention of our government was invited, when we read the following twenty-fifth and twenty-sixth articles of the contract :

"25. No mails whatever to or from any of the colonies of Australia, or to or from New Caledonia, except as hereinbefore provided, shall be received on board or carried in any of the steam-vessels employed under this contract without the written consent of the postmaster general; and for every breach of this stipulation with the consent or connivance or through the negligence of the contractors, they shall forfeit the sum of £500 as liquidated damages, to be deducted from any sums then due or to become due by way of subsidy under this contract.

"26. In pursuance of the postal convention existing between the United States government and the colonial government of New Zealand, and in order to insure reasonable contributions from the Australian colonies and New Caledonia for mail services to be performed for them, whether under the terms of this contract such contributions would be payable to the government of New Zealand or the contractors, neither the postmaster general nor the contractors shall or will transmit, or permit to be transmitted, and will use their best endeavors to prevent the transmission of, all mails to or from any of the Australian colonies, or to or from New Caledonia, unless such colony or New Caledonia, respectively, shall give such a contribution as aforesaid; and in case of any willful breach of this stipulation, the party breaking the same shall forfeit and pay to the other the sum of £500 as liquidated."

After our readers have read and pondered on the three articles presented here, we think they will be satisfied that some caution is necessary before making an agreement with any person, more especially one who does not produce authority to bind his principals.

There is much more to be said on this subject, but our space forbids a thorough examination of the contract in this issue.

Considerable has been said in the papers, here and in San Francisco, in regard to the distances between the various points on the route between San Francisco and the New Zealand and Australian colonies. We give below what we believe to be the actual distances:

	Miles.
San Francisco to Honolulu.....	2,100
Honolulu to Feejee.....	2,830
Feejee to Auckland.....	990
Total—San Francisco to Auckland.....	5,920
From Auckland to Sidney.....	1,280
Total—San Francisco to Sydney via Auckland.....	7,200
From San Francisco to Feejee via Honolulu.....	4,930
From Feejee to Sydney.....	1,510
Total from San Francisco to Sydney via Honolulu and Feejee.....	6,450

It will be seen by the above distances that Sydney is really but five hundred and thirty miles farther from San Francisco via Honolulu and the Feejees, (both of which are in the direct line,) than Auckland, a distance equal to about two days' steaming of the vessels now employed on the route. This makes a difference in favor of a direct route to Sydney of seven hundred and fifty miles, or three days' steaming. It therefore looks reasonable that the Australian colonies, being the most flourishing and populous, will eventually insist upon the main line of steamers running direct, with a branch line to Auckland from the Feejees. Indeed, the distance from San Francisco to Melbourne via Sydney, by the direct line, would be less by about two hundred miles than that to

Sydney via Auckland. Tahiti has been spoken of as a probable port of call instead of Honolulu. It is true that the route via Papeete is about thirty-five miles shorter to Auckland than Honolulu, but the danger of the navigation over the direct route is much greater than by this route; besides, it seems to be one of the objects of the colonists to develop by the new line of steamers the commerce of the Feejees. These islands are about one thousand five hundred miles directly west of Tahiti, and to visit them would take steamers out of their direct path from eight hundred to one thousand miles, a delay which is not to be thought of when time is one of the principal objects.

No. 4, (with dispatch No. 99.)

ACROSS THE PACIFIC.

The Peninsular and Oriental Steamship Company carry between the mother country and the Australian and New Zealand colonies about one hundred and fifty first-class passengers per month. For this service they exact the highest passenger-rates demanded by any steamship company in existence, and carry no second-class or steerage passengers. Having the monopoly of the carrying trade, gained and assured by their judicious use of their heavy subsidies, as well as by their great strength and power of defying competition, they have had the bulk of the East Indian service under their control. Though it cannot be said that they have in any wise abused it, still we are so situated here, that we have an idea that a little competition in regard to a certain portion of the East India service may prove wholesome, and to many of the interested parties highly advantageous.

The laboring classes, and all those whose limited means compel them to take passage to or from the colonies in emigrant vessels, have been hitherto, and are still, subjected to all the privations, inconveniences, and suffering of a long and tedious sea voyage, under the most unpleasant attendant circumstances, and with little or no accommodations to speak of. The rates of passage which are charged there are cheap, to be sure, because both the colonies and the mother country have studied the problem of immigration, and have, to a certain extent, extended facilities and encouragement to its progress. But there is no reason whatever to doubt that the system of travel between Europe and America, and between America East and America West, combined with such a steamship line as it is contemplated to organize across the Pacific, should not draw to themselves all of the Australian and New Zealand passenger traffic, now monopolized by the old-established eastern routes. The inducements which it holds out to passengers and emigrants are: A saving of time, particularly for the latter class; cheapness; superior vessels, with superior accommodations; and a route which is neither monotonous nor tedious, three thousand miles of it being by land. In no part of the voyage are passengers subjected to any of the many unpleasant features which characterize the route now in vogue. It has no Red Sea to traverse beneath a scorching and broiling sun, none of the seemingly-endless tedium of the Indian Ocean, and is free of the disagreeable accompaniments of all long sea-voyages. Its advantages, as compared with travel in the Eastern Hemisphere, are numerous and apparent, and are freely testified to by all the passengers who have tried it by the aid of the inefficient and ill-adapted steamer-line that has attempted to establish itself. As a proof of this, we may state that many of those who came through with the first two steamers, and whose business in England only required their presence there for a brief period, are returning by this route in preference to the Peninsular and Oriental. Some who did not wish to again incur the inconveniences and discomfort to which they were subjected between Honolulu and Auckland, returned by the old route.

Well-informed gentlemen, merchants and business men, from Sydney and the nearer ports, have given it as their opinion that such a line of steamers as Mr. Webb proposes to start is not only a good business speculation, but is an absolute requirement of the colonies which sooner or later must be met. Here in San Francisco, as a business community, we recognize very fully all the advantages which will accrue to us from the successful establishment of a through trans-Pacific mail and passenger service.

We perceive the necessity which the colonies experience of closer and quicker communication with the old country, and we appreciate and understand their inclination for closer and more intimate relations with the United States. Into the commercial aspect of the matter it is not necessary now to inquire; of its importance and ultimate value in this respect to us and the colonies we are assured, and have no doubt that with the establishment of the line it will speedily develop itself. Recognizing therefore the mutual advantages to be derived, we wish to see a similar appreciation evinced by our neighbors. We hope to see a liberal subsidy accorded, a sound and reliable line, and such other practicable encouragement extended as may tend to advance its interests and their own, and conduce to its permanency and efficiency. As to action of Congress in the matter, we are assured that there will be no further delay, and that the

subsidy demanded at the last session will be unhesitatingly granted. The report of the committee fully canvassed the entire project from beginning to end, and was as favorable as could be desired, and were it not for the unusual press and hurry of business, amid which the proceedings of Congress were wound up, the delay would never have occurred. We wish to see capable and first-class American lines of steamers developing the trade and commerce of the Pacific. We have been unsuccessful, and retarded for various reasons in our Atlantic shipping progress, and England has in many respects distanced us in that direction. But while we have this example to learn from, and while we understand its cause and see where and how to apply the remedy, in our own case, we should not hesitate to do so.—*San Francisco Bulletin*.

HALL ON THE RAMPAGE.

Mr. H. H. Hall, the proprietor of "my line" of steamers between Australia and Honolulu, comes out with a strong letter in the Sydney Morning Herald of November 21st, in which he threatens to run an opposition through-line to San Francisco, if Holladay & Brenham should have the temerity, and should be so regardless of their own interests as to throw him over. Hear his portentous utterances:

"To the editor of the Herald.

"SIR: From the kindly interest you have displayed in the success of the present California mail service, I feel sure that you have no wish to allow your journal to be the medium of circulating rumors regarding it which have no foundation in fact. For several months past we have been told that 'one of Webb's steamers may be expected here every day;' but up to the present there is no news of her having started.

"Now, I learn from a paragraph in your second edition of Thursday that Webb and Holladay & Brenham have formed a coalition to run a line of steamers to Australia, and that in the event of their terms not being complied with, no connection will be formed with my line at Honolulu. In reply, I beg to state that my advices from San Francisco make no mention whatever of any such arrangement, nor can I believe it exists. I hold my contract from the New Zealand government for a period of four years, and I also hold a contract from Messrs. Holladay & Brenham that they will carry out so much of it as relates to the service between Honolulu and San Francisco. Both documents are open for your inspection.

"Apart from all legal responsibilities, is it likely that Messrs. Holladay & Brenham are going to throw away a certainty for an uncertainty, and not only this, but provoke opposition on a line which they now monopolize, and this they would most assuredly do by a procedure such as that referred to.

"The performances of the Wonga and City of Melbourne will compare favorably with those of any of the American mail-steamers running in the Pacific, and I have only to charter the City of Adelaide to enable me to form a through line into San Francisco. This course I shall certainly adopt if circumstances warrant it. However, having full faith in the honor of my co-contractors, (Messrs. H. & B.,) I am satisfied that if they intend to shirk their responsibility they would at least have given me the earliest information of it, rather than have it reach me as a newspaper rumor. Trusting you will find space for this as a means of counteracting any influence the paragraph alluded to may have had, I remain, sir, yours, faithfully,

"H. H. HALL."

No. 248.

Mr. Peirce to Mr. Fish.

No. 104.] LEGATION OF THE UNITED STATES OF AMERICA,
Honolulu, March 29, 1871. (Received April 20.)

SIR: I have the honor to acknowledge the receipt, yesterday, of your dispatches Nos. 37 and 38; the latter inclosing copy of a letter from the honorable Secretary of the Navy, addressed to the State Department, dated 13th February, on the subject of my dispatch to you, No. 93, relative to the wreck of the United States vessel Saginaw, and instructing me to convey the thanks of the United States Government to His Hawaiian Majesty, to Mr. Hutchison, member of his cabinet, and to

Judge Hartwell, of the supreme court, for aid and assistance rendered by them to the officers and crew of the *Saginaw*. Likewise, to make compensation to the mau Peter, or other natives, who rendered kind service to Halford.

Inclosed herewith is copy of a letter from this legation, addressed to the Hawaiian minister of foreign affairs, written in compliance with your instructions, but omitting the name of Judge Hartwell, at his request. Payments which may be made to Peter or others, will be reported to you hereafter.

With great respect, your obedient servant,

HENRY A. PEIRCE.

Hon. HAMILTON FISH,

Secretary of State, Washington, D. C.

Mr. Peirce to Mr. Harris.

LEGATION OF THE UNITED STATES OF AMERICA,
Honolulu, March 29, 1871.

SIR: Under instructions from the Hon. Hamilton Fish, Secretary of State, I have the honor and pleasure to convey the thanks of the United States Government to His Hawaiian Majesty, and to Mr. Hutchison, his minister of the interior, for the aid and assistance rendered by them to the officers and crew of the United States steamer *Saginaw*, by the prompt dispatch of the government steamer *Kilauea*, and the timely and efficient relief afforded to those shipwrecked on Ocean Island; also for the deep interest manifested by His Majesty in the fate of those unfortunate persons.

Renewing assurances of great consideration and high respect, I am your excellency's obedient servant,

HENRY A. PEIRCE.

His Excellency C. C. HARRIS,

His Hawaiian Majesty's Minister of Foreign Affairs.

H A Y T I.

No. 249.

Mr. Fish to Mr. Bassett.

[Extract.]

No. 58.]

DEPARTMENT OF STATE,

Washington, February 9, 1871.

SIR: Your dispatch No. 64, of the 25th ultimo, has been received. The assurances offered to you by the Haytian government as to its disposition to keep wholly neutral in the contest between the Dominican parties, severally headed by Baez and Cabral, do not seem to be expressed in a way to inspire perfect confidence in their sincerity. If it be borne in mind that, for a considerable period, both the Spanish and French parts of the island of San Domingo were under the sole dominion of Hayti, that it has been the policy of that government not only to oppose the independence of the Spanish part of the island, but to prevent its occupation by a foreign power, the difficulty of lending entire credence to any assurances which that government may give as to its indisposition to interfere in Dominican affairs will be apparent. The protest of the Haytiens against the recent attempt of Spain to regain her foot-hold in that island is fresh in the recollection of the public.

It may easily be understood that the Haytiens, being mostly descended

from those of African extraction, who, once held in slavery, won their freedom and independence by expelling their former masters, should be reluctant to allow any nation tolerating slavery to acquire dominion in San Domingo. This feeling should not now, however, include the United States, especially in view of the fact that the equality of races here before the law is signally exemplified in the person of our diplomatic representative accredited to them.

I am, &c.,

HAMILTON FISH.

No. 250.

Mr. Bassett to Mr. Fish.

No. 83.]

LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, May 27, 1871. (Received June 6.)

SIR: I have the honor to state that much anxiety has lately been felt by those who have an interest in the public tranquillity of Hayti, owing to a vote of non-confidence in President Saget's ministry, which was passed by the chamber of communes in secret session as their first act after assembling, on the 20th of April, ultimo, and before the ministers had been afforded the customary opportunity to submit their annual reports.

All the ministers immediately resigned, except the minister of the interior, Mr. Larquet, who is a man of ability and energy of character, and who was understood to be the President's chief adviser. The President, though at first disposed to stand by his ministers, finally yielded, and appointed a new ministry.

The new minister of foreign affairs at once declined, and Mr. Madion, a distinguished citizen, was placed in control of that bureau. But the chambers claimed that according to a decree of the constituent assembly of 1867 he was under accusation as a minister of President Geffrard. He was therefore suspended, and General Cauvin was charged *ad interim* with the portfolio of foreign affairs.

During these proceedings there was naturally great public anxiety felt, because this attempt of the chambers to share power with the executive has been the starting point of most of the successful revolutions in Hayti, and the present is said to be the first instance in the history of this country when the executive has, on a direct issue, yielded to the chambers. The crisis is scarcely yet passed; but everybody now seems to have confidence in the conciliatory disposition of the President.

Another remarkable event has been the trial before a jury instead of one before an *ex parte* or a military commission named by the President, as has ever been the case heretofore, of several conspirators, some of whom were apprehended with arms in their hands assailing the arsenal of this city in February last. The trial excited much public interest and discussion. When of the twenty-four two were condemned to be shot, the President is said to have peremptorily refused to sign their death-warrants, declaring that he had been forced to sign two such warrants in his life, and would never sign another.

The chambers seem disposed to push every point to the letter of the law, and the executive appears decided to yield to them. This is confessedly a new point of departure in Haytian administration.

The general impression seems now to be that the ministerial crisis will be safely passed, and that affairs will settle down into comparative quietude, if the chambers succeed in taking action to relieve the financial situation, and establish a respectable circulating medium in place of the wretched currency now in use.

I have, &c.,

EBENEZER D. BASSETT.

No. 251.

Mr. Fish to Mr. Bassett.

[Extract.]

No. 77.]

DEPARTMENT OF STATE,

Washington, June 24, 1871.

SIR: Since the last instruction to you upon the subject, reiterated representations have been received here from the government of the Dominican Republic to the effect that, despite its professions of neutrality, the Haytian government has taken part with Cabral and Luperon, the armed enemies of that republic on the frontier, and has furnished them with men, munitions, and arms in furtherance of their designs. The facts stated, or some of them, are of a character which may not be denied by the government of Hayti. If their accuracy should be acknowledged, that government might be said to have acted with a want of good faith towards the Government of the United States, against which you will again remonstrate pointedly but dispassionately.

I am, &c.,

HAMILTON FISH.

No. 252.

Mr. Hunter to Mr. Bassett.

No. 81.]

DEPARTMENT OF STATE,

Washington, September 11, 1871.

SIR: Referring to your dispatches No. 85, and private No. 14, in which you state that you are informed that the government of Hayti entertain serious intentions of declaring war against San Domingo, and that the British minister may take steps to interfere with the interests of the United States, I have to instruct you to be observant of all acts by the Haytian government, and by the representatives of other powers tending to embroil Hayti and San Domingo, and to disturb the peace of the latter.

You will remonstrate earnestly in case of any such acts and keep this Department well informed in regard to them. You are further directed to ascertain whether the transmission of aid in money, military supplies, or men, to the insurgents in San Domingo, can be traced to the government of Hayti.

I am, &c.,

W. HUNTER,
Acting Secretary.

No. 253.

Mr. Bassett to Mr. Fish.

[Extract.]

No. 91.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, October 3, 1871. (Received October 21.)

SIR: I have the honor to acknowledge the receipt of your dispatch No. 77, of June 24, 1871, which did not however reach this legation until more than ten weeks after its date.

I understood the tenor of its instructions to be, that I should remonstrate plainly and emphatically against the want of good faith shown by the Haytian government in the observance of its neutrality in regard to the domestic strife in San Domingo, if it should acknowledge the proceedings which have been charged against it by the government of San Domingo, and to some of which allusion is made in my dispatch No. 85, of August 3, 1871, and again in my letter marked "private, No. 15," of the 8th ultimo.

* * * * *

Upon careful reflection, therefore, I concluded that your instructions would be more fully carried out if I were to embody in my dispatch, conveying to the Haytian government the substance of these instructions, some specifications to the general representations made by the government of San Domingo. In making these specifications I endeavored to keep within the line of diplomatic propriety, and to state them in manner and language as inoffensive as the case would permit.

My dispatch to the minister of foreign affairs (see inclosure A) makes reference to former dispatches on the same subject, and states that since the reports of the acts of his government which have been made, the subject of complaint in this particular come not only from a source so responsible as a recognized and established government, but are found in accord with information from other trustworthy sources, with rumors public and current; and with the well-known sympathies and predilections of his government, scarcely less could be expected than that they should be set forth for such explanation or criticism, or other regard, as may be just and proper. As to the truth of the eight specifications which are embodied in my said dispatch, although it might perhaps be difficult under the circumstances to establish them technically and legally, I have hardly a doubt. Observing, however, to the minister that they appear to be sustained by remarkable corroborations, I felt that I could not say less to him than that if they be correct, they show a want of good faith on the part of his government toward the Government of the United States, and that he ought not to be unmindful of the hazard and responsibility which his government must, in such a case, incur.

The dispatch seemed to have produced a visible effect upon the members of the government whom I chanced to meet socially immediately after sending it to the minister, although they avoided making any allusion to the subject in conversation, and I understood that it was several times brought up for discussion in cabinet meeting.

Ten days after the date of my dispatch, the minister returned answer (see inclosure B) in a dispatch quite characteristic of the government which he represents. He takes advantage of the guarded form of expression used in my dispatch, whereby, following diplomatic usage, I avoided stating the charges in an assured and positive manner, and he intimates that the allegations made in my dispatch are not sustained

by proofs, and must have come from factions interested in throwing discredit upon his government, by which latter statement I suspect he intends allusion to the adherents of President Baez, and especially to the Haytian exiles and refugees in San Domingo.

He declares that the sympathies of his government are in full accord with those of the "great majority of the citizens of the United States who have a lively interest in the independence of the republic of San Domingo;" that his government can have no interest in working for the annexation of that republic to Hayti, (*nous ne saurions avoir aucun intérêt à attirer à nous cette partie de l'île*;) and makes again the declaration that his government does nothing to foment discord in San Domingo, but that its strongest desire is to cultivate perfect friendship and harmony with that republic.

Although the minister but faintly denies, and does not refute, the specifications of my dispatch, yet it might be surprising that he can even tacitly deny statements which, in my opinion, lack little, if anything, but formal and sworn testimony to substantially establish them beyond question.

At all events, to borrow an expression from your No. 55 of February 9, 1871, the promises and protestations of the Haytian government on this particular subject "do not seem to be expressed in any way to inspire perfect confidence in their sincerity."

I am, &c.,

EBENEZER D. BASSETT.

A.

Mr. Bassett to Mr. Denis.

LEGATION OF THE UNITED STATES,
Port-au-Prince, September 19, 1871.

SIR: I have already had occasion several times to address the department of foreign affairs, over which you now so well preside, in relation to the attitude of your government toward the republic of San Domingo in its endeavors to maintain its own domestic peace. In the several dispatches which I have had the honor to receive from your government on the subject, it has affirmed and reaffirmed its purpose to observe a strict and impartial neutrality toward the contending parties in that republic.

As late as the 28th of December last, I had the honor to convey to your predecessor, Mr. Laporte, certain representations which had been made to the government of the United States by President Baez, and from which it appeared that the government of Hayti, despite its pledges of neutrality, was constantly putting in jeopardy the tranquillity of the republic of San Domingo, by conniving at the organization of factions on Haytian territory and by furnishing war material to Dominican insurgents. Your predecessor, in his answer under date January 10, 1871, reiterates still again the pledge of neutrality, declaring that it had been faithfully observed up to that time, and he insists that the representations of President Baez would vanish if a demand were made for the specification of a single act on the part of the Haytian government in contravention of that pledge.

Since the date of these dispatches the government of San Domingo has, with specifications and directness, repeated its representations of the continued unfriendly interference in its domestic peace and tranquillity by the Haytian government. Under the circumstances these specifications could scarcely be expected to pass unnoticed, even if they came only from a source so responsible as an established and recognized government. But when they are found to accord with information neither limited nor unsupported from other trustworthy sources, with reports publicly and commonly current, as well here in Port au Prince as elsewhere, and with the well-known sympathies and predilections of the Haytian government, I think nothing less could be expected than that they should be fairly set forth, for such explanation or criticism or other regard as may be just and proper. Some of these specifications are:

1. That men, munitions of war, money, and supplies have been regularly forwarded to the Dominican insurgents by the Haytian government, as, for instance, in the month of May or June last, when a Haytian force of several hundred armed men was marched out from the valley of the Artibonite to the Dominican frontier, under General M. Ben-

jamin as commander, which troops had orders to lend such aid to the insurgent Dominican leader Cabral as occasion might require, and actually did take some part in an engagement against the forces of President Baez; and as, for instance, in the month of June, when several hundred thousand gourdes were sent by messengers through the plains and Las Cahobas to the insurgent Dominicans.

2. That representatives of Dominican insurgents have, with the knowledge and connivance of your government, repeatedly found encouragement, aid, and comfort here in the national capital, even at the national palace, and in other parts of Hayti; as, for instance, when money and advice were freely given by your government, or at least with its knowledge, to some of those insurgents lately here, especially to a Roman priest named Meriño, and also to several others who were likewise aided and encouraged in concocting and perfecting schemes for reorganizing the movement against President Baez, in which movement General Martinez, particularly, received encouragement from the same source, here in Port au Prince, to take a leading part.

3. That Dominican insurgents, under Cabral's command, have repeatedly, when forced to retreat, been permitted to reform their forces on Haytian territory, and from Haytian territory to rally forth in hostile array against the established and recognized government of their country.

4. That Dominican insurgent leaders have been permitted to maintain with the Haytian authorities here regular communication and consultation, with the view of furthering the interests of the insurgent cause in San Domingo.

5. That not without the knowledge, and probably the consent or approval, of your government, a house is rented in the central part of this city at 40 piastres a month, for the headquarters of Dominican insurgents, who have a well-known resident for their agent here; and a journal in the Spanish language, pretendedly published at San Juan, was really concocted and issued here at Port au Prince, in the interests of these insurgents, for several months.

6. That during the month of August ultimo, orders were issued for Haytian troops in the south to aid in case of need, and to some extent the will of the *junte gouvernementale*, which was formed by Dominican insurgents during the same month, and of which, contrary to expectation, General Cabral was chosen president.

7. That the corps legislatif, during the last days of its session and with closed doors, voted a sum of several thousand piastres in such a way, and with the understanding, that it could be used in aid of the anti-Baez movement in San Domingo.

8. That, in short, at numerous times, in divers ways, encouragement, counsel, money, supplies, and other aid have been habitually furnished to the armed enemies of the republic of San Domingo by the Haytian government, or at least with its connivance and knowledge.

Such, Mr. Minister, are some of the specifications which have been made, and which appear to be sustained by remarkable corroborations. If they, or any of them, be correct, your government might be said to have acted with a want of good faith toward the Government of the United States; and, in that case, you will pardon me for remarking, not only that it would behoove your government to bear in mind the hazard it might incur by provoking the resentment of the numbers in the United States who take a lively interest in the independence of San Domingo, and especially that it should be independent of Hayti; but that it also behooves your government, as it behooves all men, nations, and individuals not to be unmindful of the penalty of at least a diminution of friendship, esteem, and credit which must ever attach to even a careless or indifferent observance of plighted faith. When one nation pledges itself to another to solemnly observe a certain course of action, that pledge ought not to be lightly regarded or lightly treated, much less to be designedly evaded.

Good faith between nation and nation lies at the very basis of all international law, of all international communion.

I seize this occasion, Mr. Minister, to renew to you the assurance of my high consideration.

EBENEZER D. BASSETT.

Hon. DARIUS DENIS,
Secretary of State, &c., &c., &c.

B.

BUREAU OF FOREIGN RELATIONS,
Port au Prince, September 29, 1871.

MR. MINISTER RESIDENT: Notwithstanding the formal assurance already given to you by my government that it intends to observe a strict neutrality in regard to the events which are taking place in the eastern part of this island, you again refer to the question in your dispatch of the 19th instant, which I have had the honor to receive, and you seem to raise some doubts upon that assurance of neutrality. You rest these doubts upon allegations communicated to your Government by that of St. Domingo,

which, according to your dispatch, are corroborated by reports emanating from sources worthy of credit, and which are, besides, in accordance with the well-known sympathies of the Haytian government. Respecting this point, I will answer that these different allegations, to which, however, you do not seem to have, yourself, a full and entire faith, since, if the occasion required, they could not be substantiated by proofs, come, without doubt, from intrigues of factions interested in casting discredit upon the government of Hayti.

The respect of sworn faith, the observance of solemn engagements, taken freely, will always serve as a basis to the policy of my government, which would feel injured in its dignity and honor if one were, with reason, to reproach it with having violated the principles of right and justice universally acknowledged and proclaimed by international law.

Thus, Mr. Minister, I have noted with satisfaction that you mention these allegations under reservations; and that you show how grave would be the consequences resulting always from a non-observance of conventions made between two nations. In that respect we are in accord with you, and my government holds at heart to give you to-day a new assurance that it does nothing to foment discord in the eastern part, having no interest in entertaining among its neighbors dissensions which could be hurtful to them.

Our sympathies are in favor of the independence of the Dominican Republic. They are entirely in accord with those of the great majority of the citizens of the United States, who take the liveliest interest in the independence of that republic, as you express it in your dispatch. We could have no interest in seeking to annex to Hayti that part of the island, (*nous ne saurions avoir aucun intérêt à attirer à nous cette partie de l'île.*) Pile, and we give you the assurance, in waiting for proofs, that our greatest desire is to live in perfect harmony with it, and to entertain with our neighbors sincere and frank relations of good friendship and commerce to the greatest advantage of both republics.

Receive, Mr. Minister, the assurance, &c.,

DENIS.

HON. EBENEZER D. BASSETT,
Minister, &c., &c., &c.

HONDURAS.

No. 254.

Mr. Baxter to Mr. Fish.

No. 22.]

LEGATION OF THE UNITED STATES,
Tegucigalpa, Honduras, February 7, 1871. (Rec'd March 16.)

SIR: Many rumors of the probability of war between the republics of Honduras and Salvador have been circulated for some time past, although I have thought with little foundation; but now, from movements that are transpiring in the two republics, such a result would seem quite probable. The government of Honduras is taking active measures to fill its ranks and put itself in complete readiness, and, if report be true, expect to be in the field within a very short time. Hopes are still entertained by many, however, that the differences, whatever they may be, may yet be susceptible of an amicable settlement. One of the causes of difference is said to be that the government of Honduras takes exception to the course pursued by the government of Salvador in harboring and keeping in government employ and position persons who have been banished from Honduras for political misdemeanors, and stationing such on the frontier, where they gather about them the disaffected of this republic and others, and continually threaten an attack, causing the government of Honduras much trouble, anxiety, and expense. In case of war, the unprotected condition of a large amount of movable property, merchandise, &c., that is usually found at Amapala, Honduras, and La Union, Salvador, is a matter of great anxiety with those interested, as being particularly liable to plunder by one or the other

party; and as many of the citizens of the United States have commercial transactions at these points, they would be severe sufferers in such case. It is most earnestly desired, by those interested, that the United States Government should station a vessel of war in the Bay of Fonseca, the bare presence of which would give them that protection so much needed. I enclose herewith a communication received a few days since from Messrs. Morris & Co., of Amapala, with extracts from letters received by them from San Francisco, presenting this matter, and the growing importance and interest taken in the trade of Central America.

I am, &c.,

HENRY BAXTER.

Morris & Co. to Mr. Baxter.

TEGUCIGALPA, *Amapala*, December 24, 1870.

DEAR SIR: As you are undoubtedly aware, there are political movements going on, both in this and the neighboring republic of Salvador. From a continuation of circumstances one can easily judge that there is imminent danger of an outbreak, and, even if experience did not show that the period of peace has comparatively been a long one, that one of the customary periodical revolutions is approaching. Under such circumstances, it is convenient to look out after the safety of such places where considerable property of an easy-movable nature is deposited—for instance, in this port—because these places attract generally much attention of either one or the other party; and all precedents have shown that, whenever these depots have been attacked, the heaviest losses have always been suffered by foreigners, generally creditors of natives, &c. During the revolutions of 1863 and 1865 we found that the presence of one or the other vessel of war protected only the custom-house at La Union from being robbed; and the massacre and robbery at this place would not have occurred in September, 1863, if a vessel of war had been in port. In view, then, of the approaching crisis and of the unprotected state in which this port finds itself, we beg to call your attention to the great convenience which may result from the presence of a vessel of war in this port, not alone on account of the approaching danger, but also on account of the increasing importance of this bay, which already commences to awaken considerable interest in California, and the East also as you will see from the inclosed extracts from letters from California.

There is comparatively little known about this section of this continent, and navigators coming to these waters have to content themselves with sailing directions and charts partially antiquated, partially incorrect; and a United States vessel coming to this bay and remaining here some time may eventually grant not alone protection to foreign and native property, but collect and bring before the public much useful knowledge and information, tending in a great manner to forward the American commercial and political interests in these republics.

If you will consider our above statements, and deem it convenient to make the necessary representations to the admiral of the Pacific squadron or at the Department at Washington, we think you will be entitled to the thanks of both nations, and foreigners interested in this country, and not less of the government of Honduras.

We remain, &c.,

MORRIS & CO.

Mr. Wells to Mr. Morris.

SAN FRANCISCO, *California*, October 31.

GEO. K. MORRIS, *Amapala*:

It is the intention of persons interested in Central American matters to hold an important meeting on the 10th November, in connection with the chamber of commerce of this city, for the purpose of adopting measures for the encouragement of trade and commerce between here and Honduras. The importance of this is now beginning to excite general attention, and there is no reason why a lucrative business should not soon be established. Whatever may be the results of that meeting shall be duly forwarded to you. The idea of establishing Tingo Island a free port and placing it under the protection of the United States, must be pressed at Washington. Senators Cole and Cassidy, of California, are now in San Francisco, and the subject shall be properly placed before them.

WM. V. WELLS.

SAN FRANCISCO, October 30.

This morning I had a long talk with Mr. Webb, the great ship-owner, of New York, who arrived here last night, and I shall do my best to excite his interest and his all-powerful aid in getting up a steam-line between this and the different Central American ports.

G. HOLLAND

No. 255.

Mr. Henry Baxter to Mr. Fish.

No. 23.]

LEGATION OF THE UNITED STATES,
Tegucigalpa, Honduras, February 13, 1871. (Rec'd March 16.)

SIR: I have the honor to forward herewith inclosed communications and papers just received from Hon. Francisco Alvarado, secretary of foreign relations, Honduras. Under the present critical situation and possible contingencies that are liable to occur between the republics of Honduras and Salvador I have thought it proper to call the attention of the government of Salvador to the existing treaty between the governments of the United States and Honduras of July 4, 1864, and especially to article XIV of said treaty; giving assurance at the same time of all confidence that nothing will occur that shall interfere with or interrupt the friendly relations now existing between the governments of the United States and Salvador.

Opinions are still entertained by many that an amicable arrangement may yet be concluded and war avoided.

Hoping my course thus far may meet with the approval of your excellency, and awaiting instructions after the communicated facts are known to your excellency,

I have, &c.,

HENRY BAXTER.

Mr. James Maddey to minister of foreign relations.

(Translation.)

COMAYAGUA, January 17, 1871.

MOST EXCELLENT SIR: I have the honor to inform your excellency, and the government, of my return to this country again to perform the duties of my position as the representative of Mr. James Brunlees, of London, engineer of the railway for the government of Honduras.

I much regret to find myself obliged, by justice to the contractor, to appeal immediately to the government for protection to the employes of the third section of the road.

The state of things in Goazcoran, the headquarters of Mr. Stanley, director of the works of said section, is such that the lives of foreigners employed there, of the agents of the contractor and of his workmen, are daily exposed and in great danger, and those employes may be killed or forced to kill their antagonists in their own defense, both of which occurrences would be very prejudicial to the building of the road, and might, moreover, paralyze the whole enterprise. The worst is that the local authorities are opposed to the laborers on the railroad instead of assisting them. The alcalde of Goazcoran disarmed a servant of the engineer's, and declared that no foreigners should be allowed to carry arms in the town, and that, too, in a town where the inhabitants have sworn to kill all foreigners, and have come around their houses at night and told them so. The government has already sent some soldiers, but as these are frequently removed for one or two days, the employes of the road have no resource left but to defend themselves. I need not say that the withdrawal of the soldiers for a time renders the fact of their presence an absurdity, for the hostile inhabitants never withdraw. Besides, the alcalde has openly declared against the railway.

In consequence of these difficulties, Mr. Stanley has suggested that the following steps be taken:

1st. That the alcaldes be ordered to give all the assistance in their power to the officers of the road, and that they be not allowed to speak openly against them, as the alcalde of Goazcoran is now doing.

2d. That all foreigners belonging to the road be at liberty to carry arms both in and out of the towns, and that they be placed upon the same footing as the officers of the government.

3d. That some difference be made in the jurisdiction of the alcaldes over the officers of the road and the natives of the country.

4th. That the soldiers sent for the protection of the employés of the road be not removed for any other service, and that a force sufficient to prevent any disorder be obliged to remain at Goazcoran, and at any other point of the line where threats have been made or bad feeling exists against the employés of the road.

Allow me to add that I consider the petition of Mr. Stanley reasonable, and that the government ought to accede to it out of regard to its own interest in the completion of the road. I hope that your excellency will communicate this petition, as soon as possible, to his excellency the President, on whom I hope to call soon.

Inclosed are copies of two letters from Mr. Drew, with regard to which I have no observation to make; but they will confirm what I have said in relation to the necessity of the immediate interposition of the government for the protection of those who are engaged in the building of the road. Unless things be put on a different footing it will be impossible for the contractors to complete their work, and I repeat that, as an engineer of the government, I consider it essentially to the interest of the government to give them all the assistance and protection possible.

With the highest respect, I sign myself, your excellency's, &c.,

JAMES MADDEY.

COMAYAGUA, January 19, 1871.

A correct copy.

[L. S.]

CALIZ.

The undersigned, minister of state in the department of foreign relations of the supreme government of the republic of Honduras, certifies that the above signature of the minister of the interior, the licentiate Don Justo Caliz, is authentic.

FRANCISCO ALVARADO.

[L. S.]

[Translation.]

Señor Don Francisco Alvarado to Mr. Baxter.

COMAYAGUA, February 7, 1871.

SIR: I have the honor to inclose to your excellency the decree which has been this day issued, declaring the treaties between Honduras and Salvador suspended, on account of the absolute refusal of that government to fulfill the duties imposed upon it by said treaties.

This step has been taken with regret, but it was necessary, as it tends to maintain the rights of this country, which would suffer detriment if the reciprocal obligations contracted by the two governments were only fulfilled by Honduras. I do not doubt that your excellency will, with the good judgment which characterizes you, regard the considerations upon which the decree is based as being eminently just.

I am, with the highest consideration, your, &c.,

FRANCISCO ALVARADO.

José Maria Medina, captain-general and president of the republic of Honduras.

Considering that the government of Salvador has refused the extradition requested on several occasions, and recently demanded, of the parties guilty of two atrocious murders, whom it should have surrendered according to the stipulations of article VI of the convention of Santa Rosa, concluded March 25, 1862:

Considering that it has also positively refused the concentration of the political refugees from Honduras, who for six years have been fanning the flame of discord in this country, and that during this time remonstrances have been made according to article VIII of the same convention:

Considering that this absolute refusal of the government of Salvador to fulfill its international duties has rendered the commission of no avail which was sent by Honduras to negotiate a harmonious and conciliatory settlement, the result of which should be peace between two friendly governments, and the strengthening of the kindly relations of two sister nations united by common interests:

Considering that to this act of flagrant bad faith it adds another still more grave, viz, that of placing considerable forces on the frontiers of Honduras, without explaining its reasons for such a step, according to article IX of the convention of Sensenti, concluded November 27, 1845:

Considering that this open violation of the treaties which bind the two republics,

and the menacing attitude which has been assumed by the government of Salvador, discharges that of Honduras from the obligations contracted by said conventions :

In observance of the rules established by the law of nations, and desiring to protect the rights of Honduras, decrees :

ARTICLE I. All treaties between Honduras and Salvador are suspended until that government shall, on its part, duly observe them.

ARTICLE II. Let this be communicated to the governments of Central America, and to the diplomatic corps, for their information.

ARTICLE III. Let it be reported to the sovereign congress of the republic at its next ordinary session ; let it be printed, published, and circulated.

Done at the city of Comayagua February 7, 1871.

JOSE MARIA MEDINA.

The Minister of Foreign Relations,
FRANCISCO ALVARADO.

Señor Don Francisco Alvarado to Mr. Baxter.

[Translation.]

CAMAYAGUA, February 10, 1871.

SIR: The continuance of political refugees from Honduras in the department of San Miguel and La Union, has been a great cause of alarm to the towns on the frontier, which are in constant dread of an invasion. This alarm has recently increased on account of the positive refusal of the government of Salvador to concentrate the emigrants, as was requested by a commission from Honduras, and on account of said governments having subsequently placed considerable forces at San Miguel under the command of General Xatruch, the leader of the opposition party in Honduras.

This situation has placed obstacles in the way of the proper performance of the work on the inter-oceanic railway of Honduras, inasmuch as the partisans of General Xatruch foment hatred among the people against the engineers in charge of the work, and some evil-disposed persons have even gone so far as to threaten them with death, as you will see by the inclosed copy of a communication from Mr. James Maddey, the government engineer.

His excellency the President has already taken the necessary measures to protect the work ; but if the invasion which is announced takes place at any point of the line the laborers must of course disperse, the engineers be in peril of their lives, and the large foreign capital employed in this great work be lost, or at least greatly prejudiced.

As those countries, on account of the inexperience of their political infancy, are constantly exposed to intestine commotions and to invasions from other States, the government of Honduras desired to secure with the friendly great foreign powers the neutrality of the line, in order that the labors which have been commenced might never be interrupted, and in order that the capital employed in the construction of the road might be guaranteed against any loss.

Among the great powers which have lent their guarantee to the government of Honduras is the great American republic, which, in the fourteenth article of the treaty of July 14, 1864, stipulated, "That, in consideration of these concessions, (those made to it by Honduras,) in order to insure the construction and permanency of the road aforesaid, as well as the advantages which its non-interruption offers to mankind, the Government of the United States recognizes the rights of sovereignty and ownership of Honduras in the line of the road ; and for the same reason it positively and effectively guarantees its entire neutrality so long as the United States shall enjoy the privileges granted in the foregoing articles, &c."

In virtue of this guarantee on the part of the United States of the non-interruption of a work in which mankind is so deeply interested, and to prevent the loss of or any injury to the large foreign capital which is employed therein, his excellency the President of Honduras, earnestly requests, through me, the very honorable Mr. Baxter, minister of the United States, to be pleased to notify the government of Salvador to refrain from attacking or occupying any point of the line of the railway from Amapala to Puerto Caballos in case of a war with Honduras, giving it to understand that any aggression, occupation, or attack on any of the points of the line aforesaid will render it responsible for any injury which may be done to the work in consequence of its interruption, and for any losses which may be suffered by the engineers, as likewise for any diminution of the value of the capital employed in the work.

This step, which his excellency the President hopes will be taken by his excellency Mr. Baxter, in consideration of the friendly and cordial relations which happily exist between the Government of the United States, of which your excellency is a worthy representative, and that of the republic of Honduras, is only designed to prevent the aforesaid injuries to the work of building the road ; for, in the event of an invasion by the government of Salvador, this government feels confident that it possesses the elements and resources necessary for the defense of the State.

I beg your excellency to be pleased to give me a reply in due time to this note, and to accept, at the same time, the assurance of my respect and high consideration.

FRANCISCO ALVARADO.

No. 256.

Mr. Fish to Mr. Baxter.

No. 19.]

DEPARTMENT OF STATE,
Washington, March 20, 1871.

SIR: Your dispatches Nos. 22 and 23, of the 7th and 13th ultimos, have been received. It is to be hoped that the hostilities to which they refer as apparently impending between Honduras and Salvador may not take place. The government of the former republic, however, seems to have been premature in applying to this Government for the fulfillment of its guarantee of neutrality to the railway in course of construction between the two oceans across its territory. It has not hitherto been supposed that the obligation of the United States to maintain that neutrality would become perfect except upon the completion of that railway, as the charge was assumed as a consideration for advantages promised, the realization of which obviously cannot begin so long as the road shall be in an unfinished state. In any event, however, a proper case under the treaty will not be presented until the forces of Salvador shall have actually occupied the territory claimed to have been guaranteed. When such an occupation shall have taken place, the real nature and extent of the obligation of the United States in the matter shall receive further and candid consideration. It is proper, however, that the government of Salvador should have been apprised, as it has been through you and Mr. Torbert, that the claim to the guarantee of this Government exists. The mere knowledge of that fact may, it is hoped, check the grievance which appears to be apprehended.

I am, &c.,

HAMILTON FISH.

No. 257.

Mr. Henry Baxter to Mr. Fish.

No. 25.]

LEGATION OF THE UNITED STATES,
Tegucigalpa, Honduras, April 1, 1871. (Received May 2.)

SIR: Thus far all endeavors to arrive at a peaceable settlement of the difficulties between Honduras and Salvador have proved a failure, and on the 5th of last month war was declared by Honduras. This step was avowedly taken by Honduras on account of the invasion of their territory by a force of Salvadorians numbering about one hundred and twenty men, and making an attack on a small police guard of thirty men, stationed at a small town near the frontier (Goascoran) merely for the protection of the workmen and works of the railway against local raids. On the 16th, a division of the army of Honduras, commanded by General Lope, crossed over into Salvador and, at Pasaquina, attacked

a force of Salvadorians, were repulsed and forced to retreat, sustaining considerable loss. Since this, President Medina, at the head of the Honduras forces, has crossed over into Salvador and, it is reported has had several engagements and met with decided success, which reports, however, need further confirmation. The same reports of success would undoubtedly be carried to Salvador with reference to the success of the Salvadorian troops in Honduras. On Thursday, (30th of March,) a detachment of General Xatruch's division of Salvadorians, numbering about one hundred men, marched into this city, which is entirely undefended, (and with a decided feeling of opposition to President Medina,) taking full possession. To-day, General Xatruch, commanding in person, occupies the city with about eight hundred troops, and, it is reported, will, on Monday, march on Comayagua. I forward herewith correspondence with the secretary of foreign relations of Salvador and also of Honduras with reference to the treaty of July 4, 1864, between the United States and Honduras, and the guarantees of neutrality as to the interoceanic railway therein contained. Comayagua, the capital of Honduras, is on the direct line of the railway as surveyed and being worked, and the principal offices of the engineers and conductors of the second section are here located, making it an important point as to the railway interests. Honduras has not made the city of Comayagua a base of military operation, nor has it had stationed here more than a reasonable and ordinary police guard, leaving it entirely defenseless as against an invading force.

I would respectfully ask instructions, under these circumstances, as to what extent would the conditions of the said treaty bear upon the protection of the private and public property of the capital of Honduras, and, further, as to the free ports of Amapala and Porto Caballo.

I have, &c.,

HENRY BAXTER.

Mr. Henry Baxter to secretary of foreign relations, Salvador.

No. 1.]

LEGATION OF THE UNITED STATES,
Tegucigalpa, Honduras, February 13, 1871.

SIR: Owing to the very unsettled state of affairs between the republics of Honduras and Salvador, and the possible contingency of a war between the two republics, and in such event invasion of Honduras by the forces of Salvador, your excellency will permit me to make reference to a treaty existing between the Government of the United States and the government of Honduras of July 4, 1864, more especially the guarantees by the Government of the United States to the government of Honduras, with reference to the route, building, and permanence of the Interoceanic Railway, particularly referred to in article 14 of said treaty, a part of section 2 of said article reading as follows: "In consideration of these concessions, in order to secure the construction and permanence of the route or road herein contemplated, and also to secure for the benefit of mankind the uninterrupted advantages of such communication from sea to sea, the United States recognizes the rights of sovereignty and property of Honduras in and over the line of said road, and for the same reason guarantees positively and efficaciously the entire neutrality of the same so long as the United States shall enjoy the privileges conceded to it in the preceding section of this article, &c. &c."

I have perfect confidence that nothing, under any circumstances, will occur that shall in any manner interfere with or interrupt the friendly relations and kindly understanding now existing between the governments of the United States and Salvador.

Allow me to express a most earnest hope that the present differences existing between the republics of Honduras and Salvador may be amicably arranged, and that the horrors of a war may be avoided.

With the assured best wishes for his excellency, the President, and the continued peace and prosperity of your favored republic, I have the honor to be, with many regards,

Yours, &c.,

HENRY BAXTER,
United States Minister Resident to Honduras.

Mr. Salvador Gallegos to Mr. Henry Baxter.

[Translation.]

No 2.]

SAN SALVADOR, *March 6, 1871.*

SIR: I have had the honor to receive your excellency's dispatch of the 13th ultimo, wherein, in view of the misunderstanding existing between this government and that of Honduras, and for the contingency of the invasion of the latter country by the forces of Salvador, you call the attention of my government to the treaty concluded between the United States and Honduras July 4, 1864, and especially to the guaranty, stipulated in article 14, of the neutrality of the line of the railway, stating, at the same time, the confidence which you feel that nothing will be done by this government in contravention of the friendly relations which exist between the United States and Salvador.

The desires of his excellency the President of this republic being in harmony with those of your excellency with regard to the avoidance of any cause of misunderstanding with the Government of the United States, on account of the neutrality to which you allude, he had already determined to respect the stipulated neutrality; but my government has considered, on the other hand, that if that of Honduras does not respect the neutrality agreed upon, making use of the territory of the railway for operations against Salvador, the guaranty of the United States will be converted into a privilege highly prejudicial to this republic, and, in view of this fact, it has required, as a condition, that the government of Honduras shall not violate the same on its part. Unfortunately, my government has received positive information that various vessels have left the port of Amapala, armed and equipped for warlike purposes, so as to capture vessels from the smaller ports of Nicaragua bound to this city: and finally, one of said vessels has committed the manifestly hostile act of seizing and holding as a prisoner of war, at Amapala, Lieutenant José Maria Ballecillos, who was on his way to this republic, likewise maltreating the mate of the vessel on board of which he was. It is, moreover, positively known that the government of Honduras has forbidden the sailing of small vessels between the ports of Amapala and La Unión, which act is in direct violation of the afore-mentioned neutrality, according to which no alteration can be made in private relations in the port of Amapala. Events of this character, which may continue to occur in Honduras, with the connivance of that government, and in violation of neutrality, would undoubtedly relieve Salvador from any obligation contracted by it with regard to respecting the guaranty of the United States; wherefore, by order of the President of the republic, I must inform your excellency, as I informed General Torbert, that the government of Salvador positively recognizes the neutrality of the territory of the railway, but it demands an effective reciprocity on the part of the government of Honduras, as I have already stated.

I thus reply to your excellency's aforesaid dispatch, and in so doing I have the high honor to subscribe myself your very obedient servant.

In the absence of the minister.

SALVADOR GALLEGOS,
Chief Clerk in the Department of Foreign Relations.

Sr. Don Francisco Alvarado to Mr. Baxter.

[Translation.]

No. 3.]

COMAYAGUA, *May 24, 1871.*

SIR: The government has this day learned that a division from Salvador, under the command of General Miranda, invaded the territory of the State on the 22d instant, at

Goazcoran, and that a portion of these troops occupied that town, while the other had gone to Langue.

As it is very possible that the expedition may advance on this capital, which is one of the most important points on the line of the railway, because the engineers in charge of the works have their workshops established here, and as the government has not taken this as a base of operations, on account of its being neutral ground, I declare to your excellency, in the name of my government, that in case the forces of Salvador occupy this capital, its inhabitants and their interests are under the protection of the great powers that have guaranteed the neutrality, one of those powers being the great American republic, which your excellency worthily represents in this country.

The government, therefore, hopes that your excellency will be pleased to take the necessary steps to protect this city, and others on the line of the railway, from a crime, since there is not even a pretext for their being occupied or molested by the enemies of Honduras.

By order of the government I address the present communication to your excellency, hoping that you will be pleased to answer me in due time, and to accept the assurances of my respect and consideration.

FRANCISCO ALVARADO.

Mr. Henry Baxter to Sr. Don Francisco Alvarado.

No 4.]

LEGATION OF THE UNITED STATES,
Tegucigalpa, Honduras, March 26, 1871.

SIR: I have the honor to acknowledge the receipt of your communication of the 24th ultimo, informing me that the government had been informed of the invasion of Honduras by a division of Salvador troops, commanded by General Miranda, and that it is very possible that the expedition should intend to move against the capital, and in such case it would be highly detrimental to the interests of the interoceanic railway.

Permit me to say that the attention of the government of Salvador has been called to the existing treaty of July 4, 1864, between the United States and Honduras, and particularly to the guarantees of neutrality affecting the route, building, and permanence of the Interoceanic Railway, and that my Government will most assuredly hold the government of Salvador responsible should it disregard or ignore the terms of said treaty.

I inclose herewith a copy of my communication to the secretary of foreign relations of Salvador with reference to the treaty of 1864, and its guarantees, and a copy of his reply thereto for your information.

With high regards, I subscribe myself your, &c.,

HENRY BAXTER,
United States Minister Resident, &c.

Sr. Don Francisco Alvarado to Mr. Henry Baxter.

[Translation.]

No. 5.]

CAMAYAGUA, May 24, 1871.

ESTEEMED SIR: I officially ask protection of your excellency for this city in case of its occupation by the troops of Salvador, which is to be feared; and as I do not doubt that your excellency will be pleased to grant this protection, in virtue of the guaranty of neutrality given by the United States of America, I beg you to be pleased to inform me whether we may hoist the American flag in the public square, as a sign of protection, on the entrance of the enemies and during their stay in this capital.

I subscribe myself your excellency's most obedient servant.

FRANCISCO ALVARADO.

Mr. Henry Baxter to Sr. Don Francisco Alcarado.

No. 6.]

LEGATION OF THE UNITED STATES,
Tegucigalpa, Honduras, March 26, 1871.

MY DEAR SIR: I have the honor to acknowledge the receipt of your communication of the 24th ultimo, officially asking protection for the city of Comayagua in case of its occupation by the troops of Salvador, (as you say is to be feared,) which you doubt not I will give, in virtue of the existing treaty. In reply, permit me to say that the government of Salvador is well aware that Camayagua is on the line of the Honduras Interoceanic Railway, and being apprised of the treaty existing between the United States and Honduras of July 4, 1864, both myself and the United States minister resident in Salvador (General Torbert) will most assuredly give it due consideration.

It would, in my opinion, be exceeding my authority to officially authorize the raising of the United States flag as a signal of protection in the principal plaza of Camayagua, (as you suggest,) in case of the occupation of the city by the troops of Salvador; but permit me further to say that the government of Salvador will be held strictly accountable by my Government for any disregard of the conditions and stipulations of the referred to treaty.

With high regard, I subscribe myself, your, &c., &c.,

HENRY BAXTER,
United States Minister Resident, &c.

No. 258.

Mr. Fish to Mr. Baxter.

No. 21.]

DEPARTMENT OF STATE,
Washington, May 12, 1871.

SIR: Your dispatch No. 25, of the 1st ultimo, has been received. The Department has already instructed you in regard to the obligations of the United States to maintain the neutrality of the railway between the two oceans, through Honduras. That obligation can in no event be construed as imposing upon this Government the duty of forcible intervention in quarrels between Honduras and her neighbors, even if the advantages promised to the United States were available by the completion of the railway. If that work were in a condition to perform the service between the Atlantic and the Pacific for which it was intended, and that service were to be forcibly obstructed or interrupted by a foreign power, especially with a view to divest Honduras of her right of eminent domain in the railway, it would be incumbent upon their government first to remonstrate against such obstruction or interruption. If this should be unheeded or persisted in, the aggressor might then be warned of the consequences, and if this warning also should be fruitless, the President might then apply to Congress for authority and means to carry the guaranty of neutrality into effect. That guaranty, however, by no means implied that the United States are to maintain a police or other force in Honduras for the purpose of keeping petty trespassers from the railway. This would be a measure contrary to the dignity of Honduras as an independent republic, and contrary to that cardinal policy of non-intervention in ordinary cases, which has hitherto characterized the United States.

I am, &c.,

HAMILTON FISH.

J A P A N .

No. 259.

Mr. DeLong to Mr. Fish.

No. 137.]

UNITED STATES LEGATION, YOKOHAMA,
Japan, January, 20, 1871. (Received February 20.)

SIR: I have the honor to inform you of the attempted assassination in the streets of Yeddo on the 14th instant of two British subjects, Messrs. Dallas and King. They were very seriously wounded by the sword of the assailant, who approached them from behind, in the night, while they were walking quietly along the streets. Both are stated to be now in a fair way of recovery.

The attack further proves the insecurity of foreigners in Japan when not constantly guarded, and forms rather a curious commentary on a proclamation issued by the British minister here to his subjects only a very few days prior to the date of this attack, assuring them that they were perfectly safe to go anywhere within the treaty limits of Yeddo without guards.

Soon after this assault was made I received the inclosed letter (inclosure No. 1) from their excellencies the ministers for foreign affairs, informing me of it, and of the measures that had been taken to arrest the offenders. I at once replied to them, thanking them for their courtesy, expressing my regret over the unfortunate occurrence, complimenting them upon their activity in attempting to arrest and bring to punishment those would-be assassins; but assuring them that in addition to the arrest and punishment of men for acts of this nature, I felt compelled to call upon them to adopt some measures to prevent a repetition of such occurrences, and suggesting to them the enactment and enforcement of a law by their government compelling a general disarming of their people, except officers and soldiers on duty within the limits of treaty ports where foreigners were allowed to go. (Inclosure No. 2.)

At a conference of foreign representatives, held on the 17th instant, and after I had written and dispatched the foregoing letters upon the subject, it was agreed that we would all address them a letter of a similar character, but calling for, or recommending this disarming process to apply throughout the empire.

I consented to this for the sake of co-operation, and forwarded to them a letter such as was agreed upon, a copy of which I inclose. (inclosure No. 3,) although my own judgment was that the position assumed by me in the first dispatch was the more correct one, namely, to ask its operation only within limits where our people are allowed to go, and where we might, I thought, reasonably claim to be heard about what laws should be adopted. And also, as it would be from its narrow limit more easy of execution, our recommendation would soon probably be effectual.

I have, &c.,

C. E. DELONG.

Inclosures.

No. 1.—Copy of a letter from the Japanese minister to C. E. DeLong, informing him of the assault upon Messrs. King and Dallas, and of the efforts being made to secure the culprits.

No. 2.—Letter from C. E. DeLong, in reply, thanking them for their courtesy, and recommending the enactment of a law preventing the carrying of arms by Japanese, except officers and soldiers on duty within the treaty limits of the various open ports.

No. 3.—Letter of C. E. DeLong to the ministers on the same subject, after a conference with his colleagues, joining with them, as agreed at the conference, upon a recommendation for the disarmament of their people throughout the empire.

Minister of Foreign Affairs to Mr. De Long.

[Translation.]

TOKU, the 24th of the 11th month, 3d year Muji.

YOUR EXCELLENCY: We regret to inform you that two English subjects, Mr. Dallas and Mr. King, in the employ of the Japanese College, have been attacked from the rear by certain Japanese, on the street Kanda Nabechio, last night, the 23d of the 11th month, about 10 o'clock, thereby they have received seven wounds on their backs: and they ran immediately into the house of Yamatoga Kechibu, near the place where the accident happened; accordingly the master of the said house hastened to the guard-house, stationed in its vicinity, to give notice of the occurrence, and also he sent for two Japanese doctors in its vicinity, by whom medical attendance was given to their wounds. We are exceedingly sorry to say that the offenders have escaped from the spot and their trace is unknown. Every possible means, however, to secure them was at once taken by the Tokrifu.

With respect and consideration,

Mr. DeLong to Minister for Foreign Affairs.

No. 8.]

UNITED STATES LEGATION,
Yokohama, January 15, 1871.

Your excellency's dispatch of yesterday, conveying to me the startling information of the assault made upon Messrs. Dallas and King, was received by me to-day. Thanking you for it, and complimenting you and all of the authorities of your government for the remarkable degree of activity manifested in the attempts to arrest the perpetrators, I beg leave to assure you of my great regret for this most important affair.

Such occurrences as these, I beg leave to assure you do more to impair the credit of the Empire abroad than years of effort on the part of your well-disposed people can do to build it up.

These acts discourage your friends, and will develop a disposition in the foreign mind for retaliation which may one day assume form and involve your government in the gravest consequences.

I beg leave to assure you that I am convinced of the utter insecurity of foreigners, even within the treaty limits of the open ports of your Empire.

Something should at once be done, not merely to avenge this or similar atrocities, but to prevent their recurrence.

I can see but one way of effecting the result desired, and that is for your government to prohibit by law the carrying of arms by your people within the treaty limits where foreigners are allowed to go, excepting, of course, your officials, soldiery, and officers on duty. This is a simple, and will prove an efficacious remedy, and I can see no other.

Outrages of this kind must be expected so long as one-half of the Japanese people in these cities are allowed constantly to carry two swords about with them.

I beg leave to urge upon you and your government the expediency of at once adopting a law of this nature for the government of the treaty ports.

With respect,

C. E. DeLONG.

No. 14.]

UNITED STATES LEGATION,
YOKOHAMA, JAPAN, January 30, 1871.*To their Excellencies the Ministers of Foreign Affairs, &c., &c. :*

I beg leave to inform your excellencies that since having answered your communication conveying to me the sad intelligence of the unfortunate assault recently made in Yeddo upon Messrs. Dallas and King, I would add to what I have already said, the assurance that the foreign representatives have heard of this outrage with deep concern. We had hoped that the establishment of the government of His Majesty the Tenno, would have been distinguished by a cessation of attacks upon the lives of foreigners, and we regret, therefore, to see in the present instance a repetition of so grave a crime. The two Englishmen had not provoked the attack. They were walking quietly in the streets when one or more Japanese stole up behind them under the cover of darkness, and cut them down with the long swords usually carried by the armed class. It is only too evident to all of the foreign representatives, that in the ranks of the Japanese sworded class there are men who are ready to use their weapons for the worst purposes, and who think little of taking the lives of their fellow-men. It is, also, evident that the disposition to crime is greatly encouraged by the light degree of restraint to which these dangerous men are subjected, and by the permission given them to wear their deadly weapons on all occasions.

The sword should be the symbol of honor and distinction, and should be intrusted only to those who will not disgrace it, but how frequently many men of the sworded class are seen in the streets of Yeddo in an excited state, threatening defenseless people with their weapons, and cutting at dogs, or committing other offenses. Surely, such men are not worthy of the privilege of carrying arms, and how can the government who allows them to do so disclaim responsibility for the violence they commit.

I trust that the measures now being taken by the government to bring to justice the Japanese who attacked Messrs. Dallas and King, will speedily prove successful, as the value of punishment in so serious a case depends greatly on the promptitude with which it is inflicted. But the foreign representatives all feel that the punishment due in the present instance will not alone suffice to protect their countrymen in Yeddo, or elsewhere, against the recurrence of similar violence, and they consider, therefore, that it is the duty of the Japanese government to take more resolute measures than they have hitherto done for controlling disorderly men of the sworded class. It is obvious that such danger would be avoided if officers only were allowed to wear their swords habitually, and if men of the common class were forbidden to carry these arms except when engaged on some public duty. The foreign representatives consider themselves bound, therefore, to earnestly urge on the Japanese government the adoption of a measure of this nature. If the latter should think from the trouble that it may entail it would be well for them to reflect on the danger to which they will expose themselves by allowing the lives of the subjects and citizens of all the treaty powers in Japan to be imperiled by a particular class of unruly Japanese, and on the reproach which the latter brings upon the country by such outrages as those of which the foreign representatives now complain.

With respect,

C. E. DELONG.

No. 260.

Mr. Fish to Mr. DeLong.

[Extract.]

No. 56.]

DEPARTMENT OF STATE,
Washington, January 21, 1871.

It is to me inconceivable that there are no courts in Japan. There must be tribunals, or officers of some kind, for settling civil controversies. The sixth article of the treaty of 1858 (Consular Regulations, page 157) refers to such courts. The treaty in effect, remits American creditors of Japanese subjects to such courts, and on general principles they must accept such remedies as the government of Japan provides for its own subjects, waiting for diplomatic intervention, till the case of a de-

nial of justice is established. If the minister will instruct his countrymen on this subject he will be relieved of the duties of an attorney in private controversies. * * *

It is not deemed advisable to propose or ask of Congress, a measure providing for an examiner of claims in Japan. The minister should not be deprived of his full responsibility about urging claims, but it would be well for our ministers everywhere to refrain from anything like a peremptory presentation of a claim until after it has been examined in this Department, except in cases of urgent emergency. The Government has frequently found itself at quite an advanced stage of the discussion of a doubtful claim before this Department had any information, or, if any, inadequate information for a judgment upon the case.

I am, &c.,

HAMILTON FISH.

No. 261.

Mr. De Long to Mr. Fish.

No. 152.]

UNITED STATES LEGATION,
February 16, 1871. (Received March 27.)

SIR: Referring to my dispatch to you by the last mail, No. 155, about the attempted assassination of Messrs. Dallas and King, and the joint letter written to the Japanese ministers, I now beg leave to inclose you a copy of their reply thereto, received by me to-day, an examination of which I think will satisfy your mind that they have recently made very rapid progress, or otherwise have foreign advisers and excusers. The letter promises nothing in effect, and its context and style confirms my convictions, expressed to you in my dispatch No. 154. I beg you to carefully examine it by the light of that opinion. (Inclosure No. 1.)

I have the honor, &c.

C. E. DE LONG.

Ministers of Foreign Affairs to Mr. C. E. DeLong.

[Translation.]

YOKEI, 26th of 12 month of 3d year *Myi*.

YOUR EXCELLENCY: We have the honor to acknowledge the receipt of your excellency's dispatch of January 20. Our government has actually, and in accordance with your excellency's request in that dispatch, instructed the strictest and minutest search, with the object of arresting the perpetrators of the attempt to assassinate the two Englishmen in the streets of Yokei, on the night of the 13th ultimo. They have already been apprehended and are being interrogated.

Your excellency in that dispatch declares it to be your opinion that, in order to insure that the measures to be taken by our government for preventing the recurrence of such acts of violence in the future may be effective, unofficial persons and the lower class of officials should cease to wear swords. This proposal has been suggested by your excellency's desire to insure the permanence of the friendly relations which exist between our respective countries, and, from a foreign point of view, we agree that the belief that order easily could be kept by adopting a principle which strikes at the root of the matter is a natural and a just one.

The wearing of the sword by the Japanese Samurai, however, arose originally out of the lawless condition of the middle ages, when every man made fighting his business, and distrust and uneasiness were so great that it became necessary to wear a sword in self-defense. Since the power of government has been in the hands of the military

class, the sword has become a thing demanded by etiquette, and the practice is one of gradual growth.

Even at the present time it is the ingrained habit of every soldierly heart to look upon the absence of the sword as a breach of etiquette. The proof of its being a thing of etiquette is, that farmers and tradesmen distinguished for eminent services have come to have the privilege of wearing the sword, and this being considered a special distinction, is in accordance with the theory of the government which has existed for many years. If we were to suddenly revolutionize this practice, without creating some distinction to replace the sword, and making the Samurai class discover and accept the reasonableness of not constantly wearing these weapons, the Samurai and the common people would be discontented, and we have great fears that they might resort to other weapons for malicious purposes. For these reasons, we are of the opinion that it would be very difficult to adopt at the present moment the proposition contained in your excellency's letter.

We shall, of course, carefully remodel the arrangements for the preservation of order in the three metropolitan cities and at the different open ports, and especially strict laws will be enacted for the arrest of Samurai or others who commit lawless acts. Although prohibitory laws exist already against those who are a nuisance in the streets, who get drunk or incapable, or wildly make an improper use of their swords to kill animals or frighten women and children, we intend to increase the strictness of these laws, and to punish, in proportion to the offense perpetrated, any Samurai of the upper or lower classes, and even persons of high rank, by taking away the sword in certain cases, never to be returned, and generally to put in force all the legislation by which such acts may be prevented.

We have lately commenced to take a census, but have as yet been unable to complete it throughout the country.

We intend to begin with Yokoi, and inquire into the origin and antecedents of every person residing here; and as there are many persons who wear swords without being entitled to do so, we shall, without admitting any representations, strictly enforce the discontinuance of the practice in their case. And in this way our government is of the opinion that before long the result will be successfully obtained, and that the streets will be quiet, and men will be able to walk them by day or by night with a perfect sense of security.

With respect, &c.,

No. 262.

Mr. De Long to Mr. Fish.

No. 162.]

UNITED STATES LEGATION,
Yokohama, Japan, March 8, 1871. (Received April 24.)

SIR: For some time past the Japanese authorities have been making frequent application to the foreign representatives to have a game law put in force at the different treaty ports. Finally, at the request of my colleagues, I drew up a draught of such a law, which we submitted to the Japanese ministers, who, after having it under their consideration for some time, finally advised us that what they really wanted was not a game law, as we understood it, but a law to prohibit hunting by foreigners in temple-groves, castle-moats, and on game-preserves, and also a law to prohibit the use of fire-arms in cities, and near inhabited dwellings, &c. We then told them to write to us, letting us know exactly what they did want, and on the 15th day of February, 1871, I received a letter from them on this subject. (inclosure No. 1.) My colleagues also received identical letters, and we discussed with each other what action we could take to carry out the ideas and wishes of the Japanese. My suggestion at first was that the Japanese should promulgate a law of this nature, with a penal clause in it, and that then the foreign representatives should notify it to their people, and instruct their consular officers to enforce it. In reply to this suggestion, my British colleague

said that British subjects could only be tried and punished in Japan for violation of British law, and called my attention to the fact that such was the rule with all other foreigners.

Referring to the first subdivision of Article 4 of the treaty of 1857, (see consular regulations No. 153,) you will find that such is indeed the rule.

This left me at a loss to know just what to do. Subsequently I received the inclosed letter (inclosure No. 2) from my colleague, Sir Harry S. Parkes, accompanied with a draught of regulations on the subject, that he proposed to issue, (inclosure No. 3) I at once replied to him (inclosure No. 4) submitting in return a draught of certain regulations, which I proposed, with your consent, to issue, (inclosure No. 5.)

This matter again brings squarely before us the necessity for Congress to legislate generally for our people here, or vest the power with the representatives to make regulations, and give them the force of law until passed upon by Congress.

You are aware that we have but little Federal legislation regulating mere municipal matters, defining crimes, or providing punishments for many offenses. We have no common law on the subject; but have left each State to regulate these matters for itself. I therefore find myself unable to help these authorities, to prevent these mean wrongs that foreigners here occasionally engage in; such as shooting birds and hares in temple-groves, burial-grounds, &c., and shooting ducks and geese in castle-moats, and in a hundred other ways outraging Japanese ideas of civility and decency, besides imperilling themselves and the peace of each community. This is but a fair illustration of the necessities that almost daily arise for some legislation for the government of our people in Japan.

With due respect, I submit this matter to you for advice and instruction.

I have the honor, &c.,

C. E. DE LONG.

Inclosures.

- No. 1—Regulation proposed by Japanese.
- No. 2—Letter from Sir Harry S. Parkes.
- No. 3—Regulation proposed by him.
- No. 4—My letter in reply to Sir Harry.
- No. 5—Regulation proposed by me.

Ministers of Foreign Affairs to Mr. De Long.

[Translation.]

TOKEI, the 20th of the 12th month of the 3d year of Meidi.

YOUR EXCELLENCY: At the last general conference held between us and foreign representatives, the matter respecting the shooting regulations was not concluded, because some articles of the said regulations cannot be applied both to the foreigners and Japanese; consequently we are desirous to adopt the following rules for the time being:

That the chasing of all kinds of beasts and birds is forbidden within the inclosures as well as the different places granted to the Japanese by the government for chasing at their occupations, and also in the compounds of churches and temples where the chasing is generally forbidden, although they are in the treaty limits; on such places the law of prohibition of chasing is posted on board in the Japanese, with foreign translation, for the guidance both of foreigners and Japanese.

That any person who shall have brought any damage on crops by chasing, shall pay a proper compensation to the proprietor.

That any person who violates the foregoing rules shall be arrested by the Japanese policemen, and conducted to the consul of his nationality, who will duly punish such offender according to his own law.

We request you to notify the foregoing to your countrymen without delay, and as soon as we hear from you on this subject, a notification will be issued among the Japanese.

With respect and consideration,

Harry S. Parkes to C. E. De Long.

HER BRITANNIC MAJESTY'S LEGATION,
Yokohama, March 6, 1871.

SIR AND DEAR COLLEAGUE: With reference to the consultations of the foreign representatives, held among themselves and with the Japanese ministers, relative to the regulations claimed by the latter for the prevention of the improper use of fire-arms by foreigners when in pursuit of game, I have the honor to forward a copy of a draught of two regulations which I have prepared for the above purpose, and which I am empowered to establish in the case of British subjects, and beg you will be so good as to inform me whether you concur in the adoption of regulations of this nature, and also as to the course which you propose to take in order to meet this demand of the Japanese government in the case of the United States.

I have the honor, &c.,

H. S. PARKES.

Draught-Notification.

The Japanese government, having applied to the undersigned and the representatives of the other treaty powers to establish regulations which shall prevent the improper use of fire-arms, or the pursuit of game by foreigners near to temples or to the dwellings of the people, or in inclosed preserves, the undersigned, in pursuance of sections 85 and 86 of the order of her Majesty in council of the 9th day of March, 1865, and by virtue of any other power enabling him in behalf, have made and established the following two regulations, which, having been approved by her Majesty, and such approval having been signified to the undersigned through _____, her Majesty's principal secretary of state for _____, are hereby published for the information of her Majesty's subjects, and will take effect in each consular district in Japan one month after the date of publication and exhibition therein, in the manner provided by the order in council aforesaid.

Regulations as to the use of fire-arms and the pursuit of game.

I. Whosoever shall willfully and without reasonable cause discharge any gun, rifle, pistol, or other fire-arms within the limits of any city, town, village, or hamlet, shall be deemed guilty of an offense, and, upon conviction thereof before any British consular or other court, shall be liable to imprisonment for any term not exceeding one month, with or without hard labor, and with or without a fine not exceeding one hundred dollars, or a fine not exceeding one hundred dollars without imprisonment.

II. If any person shall enter or be upon any inclosed land kept by the Japanese government, or their agents or lessees, or any other person duly authorized thereto, as a game-preserve, or shall enter or be within the boundaries of any temple, sanctuary, place of worship or burial, in search of or pursuit of any game, bird, or covey, such person shall be deemed guilty of an offense, and, on conviction thereof before any British consular or other court, shall be liable to imprisonment for any term not exceeding one month, with or without hard labor, and with or without a fine not exceeding one hundred dollars, or a fine not exceeding one hundred dollars without imprisonment.

No. 263.

Mr. De Long to Mr. Fish.

No. 167.]

UNITED STATES LEGATION,
Yokohama, Japan, March 14, 1871. (Received April 24.)

SIR: I beg leave to solicit from you permission to retain my native clerk and interpreter, Mr. Tozabro Hyashi, whom, as I have informed you, I engaged for three months, at a salary of fifty dollars per month.

He is a young man who has been in Europe and America, is liberally educated, and is a brother of one Maximoto, formerly physician to the Tycoon. I am enabled through him to obtain early and useful information relative to many matters transpiring here that is quite unobtainable except through native sources. He is a very reliable person, and from his rank and relationship he is familiar with officials and with the history of the country. In evidence of his intelligence and usefulness, I beg leave to transmit to you a copy of a statement in writing that he made to me about the history of the Christian religion in Japan, and the present condition of the native Christian converts, and of the laws of this empire in the past and the present upon this subject, (inclosure No. 1.) I believe this statement to be literally true, and it serves to throw much light upon this subject, otherwise so very mysterious.

Also, I beg leave to inclose to you a little explanation made by him to me, at my request, of the term "Meidi," used by this government in denominating the present time, (inclosure No. 2.) It is true that this matter in itself is unimportant, yet it will serve, I trust, to illustrate to you how such an assistant materially aids me in my position to understand much in the language and manners of this people with whom I have to deal that would be otherwise very mysterious.

I have the honor, &c.,

C. E. DELONG.

Inclosures.

No. 1.—Statement of the history of Christianity in Japan.

No. 2.—Definition of the term "Meidi."

Tozabro Hyashi to C. E. DeLong.

YOUR EXCELLENCY: In reply to your request for me to give you the definition of the term "meidi," I have to say: The Emperor of Japan gives a certain title to the year when he ascends the throne, and thus counts the years of his reign as first, second, third, fourth, &c., of such title. Formerly, if there occurred during the course of his reign any great calamities, such as great earthquakes, famines, tempests, &c., he would change the title, and commence to count the years anew from that time, thinking the title unfortunate and productive of bad results. This superstition was originally introduced here from China about one thousand two hundred years ago. This usage has been so long in force here that the people have become accustomed to it.

"Meidi" is the title given to the year by the present Emperor at his succession to the throne, which was four years ago, this being the fourth year of "meidi."

By the present law of this empire, our Emperor is not allowed to name the year but once during his reign, therefore the present title, "meidi," which means "peace after enlightened manners," will continue until the present Emperor dies.

Respectfully, &c.,

TOZABRO HYASHI.

YOUR EXCELLENCY: In reply to your request for me to state to you in brief what I know about the history of Christianity in Japan, and the present condition of native Christian converts, I beg leave to state: That about the sixteenth century Christianity was propagated with so much success in this country that the Tycoon, Nobunagaya himself, is said to have confessed his belief in the faith. A certain essential part of a

castle is always built in imitation of the steeple of a Christian church, which the chief of the castle at that time used as a place of worship. This part, which is called "Tenshu" (meaning dedicated to the Heavenly Lord,) continued to be built long after the prohibition of Christianity in this empire, thus proving that this religion was still, for some time, tolerated among natives.

The Christian missionaries, seeing their growing influence over the consciences of the people, commenced to meddle with the politics of the State, whereupon the Dutch warned our people of the danger from this. Acting upon this suggestion, the government prohibited its propagation, and compelled all foreigners, except the Dutch, to leave the country.

At the siege, and subsequent fall of Osaka, the final victory of the ancestors of the Tokugawa family was gained, and many leading officers who were in the city escaped to Shunabarra, near Nagasaki, where the people generally professed Christianity, and excited them to open insurrection, by deluding them into the belief that the government intended to prohibit Christian worship. Those people, laboring under this delusion, rebelled against the government, and maintained their opposition for over two years; and soon after they were overcome they still continued to be rebellious and fanatical, mixing their religious belief with party spirit. This caused the government to take steps to prohibit this worship entirely throughout the empire; therefore, on this account, and not on account of the belief itself, it was prohibited. This is further proved to have been the motive by the fact that Buddhism was not also prohibited, which is not the faith of the Mikado, he being Sintoo in his faith. These things occurred about the year 1630.

At the time Commodore Perry entered Yeddo the Tycoon made the treaty with him in opposition to the sentiments of several of the great daimios, who, having long been jealous of the Tokugawa clan, (of which the Tycoon was a member,) took advantage of the anti-foreign sentiment of the people then prevailing, and pretending also to make war to uphold the religion of the Mikado, rebelled against and overthrew the Tycoon, and put his Majesty, the Mikado, on the throne in his stead. In fact, they made use of the Mikado as a puppet, to execute their desires in his name and seemingly by his authority.

The present government, owing to its declarations, was necessarily severe against any who followed any foreign religion. Against those who professed Buddhism—which being generally professed in the empire—they took measures only against the priests, who were deprived of many privileges hitherto granted to them.

Whatever promises may have been made by it relative to the mild treatment accorded to native converts, their punishment continues to be severe and cruel.

Under the late government the punishment was the crucifixion of the convert, but by the law of this government the punishment extends over eight families, to wit: parents, grand-parents, elder and younger brothers and sisters, uncles, aunts, sons, daughters, grand-children, and male and female cousins of the convert, and is death. It certainly has done away with the punishment by crucifixion, but simply doing this can hardly be called mild treatment.

Those converts who were imprisoned year before last would have been killed according to this law, but for the remonstrances of the foreign representatives. They are yet kept in close confinement.

Respectfully,

T. HYASHI.

No. 264.

Mr. De Long to Mr. Fish.

No. 203.]

UNITED STATES LEGATION,
Yokohama, Japan, June 17, 1871. (Received July 24.)

SIR: At the risk of being disagreeable in so persistently urging upon your attention the imperfections of our laws to meet and provide for the wants of American citizens in Japan, I shall venture in this dispatch to call your attention to imperfections in our existing laws, and to the manifest necessity for other and further legislation. I perform this labor at this time that my suggestions, if any of them should be fortunate enough to meet with your approval, may be laid by you before Congress at its next session, with such recommendations as the President or yourself may see proper to make.

Calling your attention in the first place to the provisions of the sixth

article of our treaty with Japan, signed at Yeddo, July 29, 1858, (see bound volume of treaty with Japan, page 33,) which reads as follows: "Americans committing offenses against Japanese shall be tried in American consular courts, and when found guilty shall be punished according to American law," I presume that I am justified in saying that Americans resident here cannot be tried or punished for violating any Japanese law or regulation unless a similar law or regulation exists in our country. Following this, I beg leave to refer you to section four, act of June 22, 1860. (See new consular regulations, page 245.) This provides a similar limitation over our judicial tribunals, directing them to exercise their jurisdiction, civil and criminal, "in conformity with the laws of the United States;" but it also further provides as follows: "But in all cases where such laws are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies, the common law, including equity and admiralty, shall be extended in like manner over such citizens and others in the said countries; and if defects still remain to be supplied, and neither common law, including equity and admiralty, nor the statutes of the United States, furnish appropriate and suitable remedies, the ministers in the said countries respectively shall, by decrees and regulations which shall have the force of law, supply such defects and deficiencies."

In your dispatch to me, No. 48, of the 20th of December, 1870, you give a construction to this act limiting my powers in issuing decrees and regulations; to directing a mode of procedure for the enforcement of existing laws, and not to the creation of law.

This construction drives the judicial officer here in punishing a citizen to the terms of some act of Congress or some provision of the common law of equity or admiralty.

In fact it drives the officer in punishing crimes to the common law, because we have no statutes of the United States defining crimes and providing punishment except in a very few and generally inapplicable cases. Equity and admiralty, of course, are civil exclusively.

Driven, then, to the common law in exercising our judicial powers for the prevention of crimes, allow me to ask what common law are we to be governed by?

Statute law of the several States of the United States can hardly be called common law, but if by a stretch of imagination they are included, then it follows that no uniform rule exists, because in one State the law is different from that of another, and a judge would be left to mete out hanging and uncertain punishments for the same offense, and bring ridicule and contempt upon our tribunals here, besides inflicting serious injustice upon individuals.

If, then, it is the common law of England that is intended for us to execute when no United States statute covers the case, we find in many cases an absence of any express or well-known provisions for the government of many cases. For instance, the rule of the road in driving or riding in England is to turn to the left, and that rule has been adopted by the Japanese; with us, on the contrary, it is to turn to the right.

Now, supposing an American, in riding or driving, adhering to his own laws on this subject, willfully collides with a vehicle driven by some other foreigner here, or by a Japanese, and damage is caused, or a personal injury is inflicted, how is the man to be punished?

Again. In this community gambling is openly carried on in defiance of the laws of this empire and of the expressed wishes of the Japanese authorities; houses of ill-fame are openly and sometimes boisterously conducted in the city; furious riding and driving is indulged in in the

streets; and the use of fire-arms in cities is made in a way dangerous to life; yet in the common law we find no suitable provisions for enabling us to regulate or prohibit these things.

Unfortunately, owing to the proximity of Japan to California, many of the very worst characters of both sexes that infest these ports and are guilty of these offenses are American citizens, and upon our country, its officers and institutions, are inflicted the disgrace which these things entail.

We have cities here without any town councils or mayors, each quota of its inhabitants being left, for all general and special government, to the ministerial and consular authorities of their own countries for government.

My brother officers here and myself, while not desiring to exercise doubtful or extraordinary powers, are still desirous of being armed with sufficient authority to preserve as good order among our people as other authorities among theirs; yet we find it quite impossible.

For these reasons I again call this matter to your attention, in hopes to secure from you such recommendations to Congress as will cause that body to legislate for this community in a manner to free us from these difficulties.

In connection with these remarks, I beg leave to call your attention to the imperfections in the act of July 1, 1870. This statute is, in my opinion, almost wholly wrong, and I respectfully submit that it should be repealed.

I invite your attention to the following brief review of it:

Section 2 of that act, in its first provisions, takes from the consul general, or the consul residing at the capital, the judicial powers vested in him by the act of 1860, and confers the same on you. Those judicial powers are simply all of the powers vested in me as minister, both appellate and original.

To illustrate the operations of this statute, allow me to imagine a case.

Suppose I should leave Japan temporarily, or that I should die, and during the period of my absence, or before the vacancy caused by my death was filled, a person should wish to bring an action against one of our consular officers, or an action in which one of our consular officers should be a material witness; where would he bring such action? By the law of 1870 he would be compelled to commence his suit before you, the Secretary of State of the United States. The plain unconstitutional nature of that provision I think should of itself warrant its repeal; but besides this, it is palpably violative of our treaty with Japan, which promises Japanese suitors that their complaints against Americans shall be tried in the courts of the United States in this empire. (See article 6, treaty of Yedo, of July 29, 1858.)

In addition to this, it is impracticable, and calculated to retard and defeat justice by driving litigants into a strange field, at an immense distance from where they reside and where their evidence is obtainable.

Actions of this nature are quite frequent. I have tried several such cases, and now have four or five pending before me.

Section 3 of the act of 1870 is open to still more serious objections, and it seems to me needs only to be carefully read to prove this assertion.

In the first place, it provides for an appeal from a judgment rendered by a minister in a criminal proceeding, when he sits as a court of original jurisdiction, when no law confers any original criminal jurisdiction upon the minister. This is harmless but useless. But the remaining portions of that section are extremely odd, and, I think, mischievous.

A party is given the right of an appeal from a judgment in a capital case, but is not allowed a stay of proceedings, unless the minister, the very officer who must by the law concur in the judgment to make it effectual, shall stultify himself by certifying that there is probable cause for such an appeal.

In other words, a minister who has approved a sentence as being regular and just, to grant a stay of proceedings pending an appeal, must issue his certificate certifying that the judgment is probably irregular or unjust.

But still the party may appeal, the advocate of the law of 1870 may say; so he may, is my reply, but, without the benefit of an order staying proceedings under the judgment, the appellant may be hung before his appeal is heard, and his heirs be left the benefit of a reversal of the judgment.

Sections 4 and 5 are objectionable, in my opinion, for the following reasons:

In the first place, consuls in Japan are not educated lawyers, and their courts are not conducted in accordance with the strict rules of practice governing courts of law at home. In fact, I believe all of their judgments would, upon appeal to the United States district court, be very liable to be reversed, if that court should hold strictly with them the same rules governing its decisions ordinarily. In other words, errors of form and in practice would compel these reversals, for however much that court might wish to allow for the exceptionable condition of these courts, still it could not admit two classes of decisions into its records, and what would be held to be error in a strict court of law at home would be held to be error here. Thus litigation here would be rendered vexatious and unending. Neither can you prevent this by a system of liberally-drawn rules, for at last you must provide that certain things must be done which, if left undone, would be error, and then what? Strange as it may seem, *this law of 1870, in all of its provisions, says nothing about what disposition is to be made of a cause reversed upon appeal. Is it to be tried anew, and if so, where?*

The author seems to have intended that upon the appeal the cause should be heard and decided upon the record above, as certified upon appeal; and that the judgment of the district court in all cases should be final, and no new trial be had.

Suppose, on the trial in the consular court, the appellant had offered to prove a certain fact, and the court had refused to admit the testimony offered; that an exception had been taken thereto, and formed one of the grounds of error presented to the district court on the hearing of the appeal; that the district court should regard this ruling of the consular court as erroneous, and hold that the appellant should have been allowed to have proven that fact if he could. Then suppose, further, that the fact that the appellant offered to prove was a material one—one that, if established, would entitle the appellant to a judgment—what in such a case could the district court do, except to reverse the judgment, and remand the cause to the court below for a new trial? It cannot be said that the district court in such a case should act as if the proof had been admitted and the fact proven, and made judgment accordingly, for it frequently happens in practice that a party offers to prove a fact that he would fail to be able to establish, even if allowed to proceed. This is sometimes done to make error in the record, and sometimes it is offered in good faith, and the party, when allowed to pro-

ceed, is disappointed in his own evidence or overcome by his adversaries. Then, too, if the district court in such a case was to assume that the appellant could and would have adduced the proof he offered and which was excluded, by what system of reasoning can that court conclude that the respondent might not have offered evidence against it sufficient to have disproven what the appellant sought to establish? It could not do this, nor would not; hence I insist that, notwithstanding the author's intentions, new trials must necessarily follow reversals of judgments in many cases. Consider, then, the consequences of this system. Japanese litigants, notwithstanding the clause in our treaty that I have quoted, are in common with all other litigants, driven into courts five thousand miles distant, where they have no acquaintances or agents—about the rules of which they are in entire ignorance. Their business then falls in with the mass upon a calendar, to come up for disposition at some distant day, and if the judgment is reversed and a new trial ordered, if they are fortunate enough to try it anew in a proper court, another appeal may be taken, and thus delays obtained so vexatious as absolutely to be destructive of the principles for which courts are established.

I think that when the operations of this law are known and understood by business men here of all nationalities, that it will be regarded by them as being calamitous, and result in a person's sacrificing on large demands a very great portion of the sum justly due in order to obtain immediate payment and avoid the expense and delay that litigation under this statute will entail.

Sections 9 and 10 of the same act, although not very important, I regard as being unwise and unjust.

I know of no reason why the appropriations for jail and other expenses at Shanghai should be twice as much as at Kanagawa—a place of greater necessities in this line, as it is the naval station of several powers, besides bearing as important a mercantile character. But this is a matter that I am indifferent about; it is the residue of the sections that I object to. I do not think the system of appropriating a sum total for the several consulates is a good one. Neither consular officer knows, or has any means of knowing, how much of the prison fund has been drawn out by the other; nor has he any means of knowing until his drafts are dishonored because the fund is exhausted. I would recommend a change in this regard, so as to give to each a sum certain as a maximum. The appropriation need be no more in the aggregate, and yet each consul would know the limit of his yearly allowance, and avoid drawing for any excess.

With due deference, I submit that this act is almost wholly wrong and should be repealed. The tediousness of communicating one's views by writing is such that I shall forbear pressing other views that I have, at least this time. I think, perhaps, that it would be well for me to visit Washington and confer personally with you about these and many other matters, including the course of action you wish me to follow in revising the treaties next year, in regard to the residue of the Semonosikei indemnity, the native Christian matter, &c. Should you deem it advisable for me to come to Washington and meet you, I shall only say that I shall be happy to do so, starting in October or November next.

I have, &c.,

C. E. DE LONG.

No. 266.

Mr. De Long to Mr. Fish.

No. 211.]

UNITED STATES LEGATION,
Yokohama, Japan, July 2, 1871. (Received August 22.)

SIR: I have the honor to advise you that a few days since I received from the minister for foreign affairs of this empire a note informing me that, in pursuance of the provisions of the thirteenth article of the treaty of 1858, that a revision of said treaty would be claimed by their government. (Inclosure No. 1.)

I at once replied thereto, (inclosure No. 2,) reminding them of my having served them with a similar notice verbally on the 5th day of May last. I did so, acting under the belief that our Government would desire to revise the treaty at that time, but if not, that the notice might be recalled, and no harm be done by it.

Trusting to your approval, I have, &c.,

C. E. DE LONG.

No. 1.

Japanese Minister for Foreign Affairs to Mr. De Long.

[Translation.]

13th of the 5th month 4th year of Meidi. (30th of June, 1871.)

SIR: We beg to state the following to your excellency, that by the thirteenth article of the treaty of 1858, it is declared that on the 4th day of July, 1872, or thereafter, the said treaty may be reconsidered.

As there are some articles which should be reformed by the period specified, we have the honor to give you the previous notice.

We have the honor, &c.,

His Excellency CHAS. E. DE LONG,
Envoy Extraordinary and Minister Plenipotentiary of the United States.

No. 2.

No. 4.]

UNITED STATES LEGATION,
Yokohama, Japan, July 2, 1871.

YOUR EXCELLENCIES: The undersigned, envoy extraordinary and minister plenipotentiary of the United States of America in Japan, begs leave to acknowledge the receipt of your excellencies' note of date the 30th of June last, notifying your intention to "require a revision of the treaty at present existing between our two governments."

At the same time the undersigned begs leave to remind your excellencies of the fact that at an interview, held with you at the foreign office on the 5th of May last, the undersigned, in behalf of the Government of the United States, had the honor of giving you a similar notice.

With respect and consideration,

C. E. DE LONG.

To their Excellencies the MINISTERS FOR FOREIGN AFFAIRS.

No. 267.

Mr. De Long to Mr. Fish.

No. 219.]

UNITED STATES LEGATION,
Yokohama, Japan, July 15, 1871. (Received August 22.)

SIR: I have the honor to advise you of my receipt to-day of a note from their excellencies the ministers for foreign affairs, requesting me to invoke your aid to procure for their government a competent legal

adviser; and informing me that Mr. Mori, chargé d'affaires for Japan, will be instructed to confer fully with you.

I beg leave to assure you that I consider this a very complimentary and important request; one that I trust will be so fortunately complied with as to secure for this government the services of a gentleman of unquestionable honor and ability, both as a lawyer and as a diplomat.

Such a person, in my opinion, will be in a position in a short time to wield a great power for good with this nation.

His rapid advancement to a highly honorable position, where great reputation may be won, I consider very certain.

I have very earnestly urged upon all of these authorities the great importance, to their government, of their at once selecting and employing such an assistant; as they have constantly to deal with questions of foreign law, of which they know comparatively nothing.

This application proves that I have at least been successful in influencing them to take this step. Guided by my instructions, I have in this as in all other similar matters, refused to mention any person as suitable; but while recommending the measure, I have referred them to you to select the man. The importance to our Government of having one of our own people selected for this position, is that it prevents the selection of some other for that office, who, by being partial to another nation's interest, might thereby become inimical to our own. It secures to our Government a friend at this court, who while honestly serving Japan, may probably, and doubtless would, prevent erroneous opinions from becoming generally entertained relative to the American Government, its institutions and policy.

I infinitely prefer having this one selection being intrusted to us, than I would to be given the appointment of many persons to minor positions. Such appointments serve a trifling purpose, most often entirely personal, and are not in any way freighted with important consequences; whereas it is not very improbable that the person whom you may select for this place may have almost the whole foreign policy of this government intrusted to him, for management, in time; indeed, his influence may extend further, and when he has once succeeded in gaining the confidence of the government in his ability and honesty, he may be able to do much to get it to open its doors full width to the stream of civilization so anxious to pour in, and thus materially aid in the great work of the moral and political redemption of this people. In this connection I beg to suggest that the person whom you may select, shall be one not indifferent to the cause of religion. I would not desire an enthusiast, but a person who, when he sees an opportunity to help in that cause, will not allow it to pass wholly unimproved.

The president of the government college at Yeddo is an American, and so are many of his assistants. At that institution hundreds of the youths of this land are being daily instructed. Another American gentleman is teaching a class of young men at the foreign office, who are being educated in languages and law, with the intention of qualifying them for positions in the various departments of this empire. Numbers of young Japanese noblemen are leaving here now monthly for America, and entering our numerous institutions of learning. All in my power I have constantly done to stimulate this emigration, and to foster and encourage these schools, believing that in this way, more surely and thoroughly than in any other, these people would become able to correctly judge of matters for themselves, and thus in that way, slow, to be sure, but, as I consider it, certain, the influence of our Government with this nation may be raised from the low position that it now seems to occupy.

All of the treaties with Japan are to be revised next year; that hour will be an important one for this empire, and at that time it will sorely need an able counsellor.

It may be thought that it would be more in the interest of our Government, and that of other civilized powers, that Japan should not at that time have such assistance than that it should, but I dissent from this view. I believe that all advantages foreign powers might gain over them through their ignorance of international law, would be far less in importance, besides being more unworthily gained, than what will result from having them represented by an able advocate, who, while he would prevent unworthy advantages from being taken of this government, would also counsel them against insisting upon unjust and unreasonable things, likely to produce mischief and trouble.

I trust that in contracting, a clause will be inserted giving to this gentleman a rank sufficient to entitle him to meet with the privy council of the sovereign, and not have him at the mercy of any chief of a department who, through ignorance or malice, might by misrepresenting his views at court, ruin his influence.

Trusting to your kind approval of my course in this affair, and earnestly hoping that you will exert yourself to assist in the proper accomplishment of this matter in conjunction with Mr. Mori, I have, &c.,

C. E. DE LONG.

No. 268.

Mr. De Long to Mr. Fish.

No. 238.]

UNITED STATES LEGATION,

Yokohama, Japan, September 4, 1871. (Received October 16.)

SIR: I am, as yet, quite unable to furnish you with the full information promised in my dispatch No. 233 by the last mail, in regard to the great changes going on in the administration of the affairs of this empire. I will roughly sketch, for your information, some of the most important that have occurred within my knowledge, and give you my surmises as to their intended effect, but I beg you not to place too much reliance on the deductions that I may draw, as all here is still confusion, and such information as I have received relative to the political bearing of these events has been hastily gleaned and needs some further verification.

On the 31st of August last I received a note from Mr. Sawa, former minister for foreign affairs, advising me of his removal from that position, (inclosure No. 1,) to which I at once replied, (inclosure No. 2.)

On the same day I received a note from Mr. Ewackura, advising me of his appointment to that position, (inclosure No. 3,) to which I also at once replied in a friendly and cordial spirit, (inclosure No. 4.)

I beg to assure you that I felt deeply all I said in both of my replies, as my relations with both of these gentlemen have ever been, since the date of our first acquaintance, most cordial both officially and personally.

On the 1st instant I received from the minister for foreign affairs a note advising me of the abolishment of the Hans throughout the empire. (Inclosure No. 5.) Hans means what we call prince or daimio.

On yesterday, at the foreign office, where I met the ministers Ewackura and Serashunia, I urged my inquiries about this matter, and learned that by a decree all daimios had been removed from office, and directed in the ninth Japanese month (two months from now) to assemble in Yeddo, and thereafter to constantly reside in that city, they to be

allowed ten per cent. of their former revenues as a means of support, but to be allowed no commands or any rank or office except to rank generally as noblemen; to be eligible to office under the central government, but not otherwise than by selection by the central government to have any official position; their *Daimies* or provinces to be directly under the administration of the central government, which would for the present retain the former local officials under the *daimios* in their respective positions, but subject to such changes as the central government might see proper from time to time to make. I inquired if any resistance to this decree was feared or expected, and I was given to understand that, on the contrary, many of the larger *daimios* had solicited the issuance of the decree.

To you this will doubtless seem exceedingly strange, as it seemed to me, but my own conclusions are these: That these *daimios* have, for a long time past, been more nominal than actual rulers of their provinces, the real control of which has been vested in a local legislature, presided over by a *kiro* or *dai-san-gu*, who, reaching his position by merit and not from birth, has gradually assumed more and more power, until, as a class, these *kiros* are more properly the head of the respective clans than their lord the prince has been; that the *daimios*, thus finding themselves as a class being gradually supplanted in actual power, while they had entailed upon them the expense and responsibility of the position of actual lord, are happy to escape all responsibility, and the expenses of their sham sovereignty, and retire to a position of ease and no responsibility, when they will perhaps have, from the one-tenth of their former revenue devoted entirely to their individual use, more money to thus expend than they formerly had when receiving their full revenues.

This reasoning finds some support in the fact that some six or seven of these *kiros* have been called to fill high offices in the central government and elsewhere retained in their former positions. Some of these *kiros*, for the first time in the history of this reign, have been appointed chief ministers of their respective departments; as, for instance, *Okubo* is chief minister of finance; *Goto*, of public works; while *Okuma* (saigo of *Satsuma's* clan) and numerous others are created *sanji*, or counselors of His Majesty.

The outlook of this whole affair to me is that it has been resolved to in fact do away with hereditary rights of office below His Majesty himself.

Thus to push one side the *koongays*, or old court nobility, *daimios* and all others who have no other claim to title or office except by birth-right, and at the same time dispense with innumerable useless offices, leaving these same *koongays* and *daimios* eligible to office, and assigning them to such positions as their characters and talents warrant them to be capable of in the opinion of His Majesty; to thus centralize the government by practically extinguishing clanship, and placing all under one supreme head. This plan is one that is certainly wise and desirable, and if it can be executed without bloodshed or trouble, will advance this nation in a day, as it were, to a position that it has taken some nations years to accomplish, and which some have never reached.

That I wish this government success in its efforts to work this reform I need not assure you, or that I will lend it every kindly aid by counsel or otherwise. Another thing of interest to foreigners is observable in the changes that have taken place, especially in the acceptance by Mr. *Ewackura* of the office of minister for foreign affairs.

Originally, when the Mikado's government assumed control, swayed

as it then was by the strongest kind of anti-foreign sentiments, the department of foreign affairs was seemingly made as low and unimportant as possible, to even make it appear to the native mind to be in fact no department of the government at all. To this end the office was located near the foreign concession, in Yedo, in a miserable building, in what they consider the fishermen's quarters of the city, while all the other departments had their offices in or adjacent to the palace.

Gentlemen of first merit and talent in the government sought other posts, but appeared to scorn this; in fact it is said that it was looked upon more as a mark of royal neglect or contempt than one of favor or preferment to be appointed to any position in the foreign department.

The daily increasing importance of the foreign relations of Japan with the lapse of time has revolutionized this idea, until I believe the Japanese court have learned to look upon this department in its true light, as being in fact the one of the very greatest in point of honor and difficulty of any that they have to fill. This is evidenced by Mr. Ewackura's acceptance of a post to-day that one short twelve months ago I believe he would have regarded as most demeaning for him to accept.

I have long believed, and still believe, him to be one of the very foremost men of this government, both in point of ability and power. He has held, and I believe he still holds, the rank and position of chief *dainegon*, that is, first counselor of His Majesty, next to the prime minister, Sanjo Daijen.

That I have had some little share in producing this last-mentioned result, I am happy to have some reason for believing.

During last month, annoyed and perplexed by having a stream of claims poured in upon me for adjustment, matters properly for courts, and meeting in one case what I considered to be unconscionable delay in the Foreign Office, I addressed an appeal to the *dainegons* (inclosure No. 6) asking for the necessary reform of having courts established here in which my countrymen could sue and obtain relief, without thus constantly burdening me with their unusual and improper business. During the course of my interview with Mr. Ewackura on yesterday, he informed me that my appeal had caused the counselors of His Majesty to seriously deliberate for several successive days over the suggestions I had made, and fairly intimated, although he did not say so, that this document had assisted in causing the government to properly estimate its department of foreign affairs.

If I had imagined that my appeal would have met with such distinguished consideration, I should have prepared it much more carefully.

His excellency Mr. Ewackura, in view of my departure for Hakodada, day after to-morrow, has sent me word that he wished a confidential interview with me to-morrow, and for that purpose will visit me at Yokohama. If, from that conversation, any new light should be shed, I will write you a hurried statement that evening before sailing.

I have, &c., &c.,

C. E. DE LONG.

Inclosures.

- No. 1.—Note from Mr. Sawa advising me of his resignation.
- No. 2.—My reply thereto.
- No. 3.—Note from Mr. Ewackura advising me of his appointment.
- No. 4.—My reply thereto.
- No. 5.—Note from the ministers for foreign affairs advising me of the abolishment of the *hans*.
- No. 6.—My appeal to the board of *dainegons*.

No. 1.

His excellency Jusaumi Sawa Nobuyoshi to Mr. De Long.

[Translation.]

TOKIE, 7th month, 14th day, 4th year Miji.

YOUR EXCELLENCY: I have the honor to advise you that I have been removed from the office of guiamsashio, (minister for foreign affairs,) and Mr. Ewackura has been appointed in my place as my successor in that office. I beg to tender you my most sincere thanks for your courteous and friendly consideration for me hitherto, while I occupied that position.

I have, &c., &c.,

JUSAUMI SAWA NOBUYOSHI.

No. 2.

Mr. De Long to his excellency Sawa Nobuyoshi.

No. 30.]

UNITED STATES LEGATION,
Yokohama, Japan, September 1, 1871.

YOUR EXCELLENCY: Your note of yesterday, advising me of your having vacated your former position of minister of foreign affairs, I have just received.

It gives me great pain to know that our official relations, so long and so pleasantly maintained, are terminated. I trust that in your retirement you will do me the honor to consider me as still being a warm, sincere, and personal friend, who will at any time be only too happy to serve you at your command.

I feel sure that all of my colleagues join me in the belief that no monarch ever had a more honest or faithful officer than His Majesty the Tenno had in the person of yourself.

I remain, &c., &c.,

C. E. DE LONG.

No. 3.

His excellency Junie Ewackura Tomochika to Mr. De Long.

Translation.

TOKIE, 7th month, 14th day, 4th year Miji.

YOUR EXCELLENCY: I have the honor to advise you that I have recently been appointed to the office of guiamsashio, (chief minister for foreign affairs.)

It is my great desire that hereafter you will establish with myself the very intimate and exceedingly kind relations that you have formerly held with my predecessor.

I have, &c., &c.,

JUNIE EWACKURA TOMOCHIKA.

No. 4.

Mr. De Long to Mr. Ewackura Tomochika.

No. 31.]

UNITED STATES LEGATION,
Yokohama, Japan, September 1, 1871.

YOUR EXCELLENCY: Your note advising me of your appointment to the office of chief minister for foreign affairs of this empire has been received.

I sincerely believe that the department, of which you are now the chief, is the most important one in your government. Through it all the business of your government with foreign powers should be conducted; consequently, in its keeping is confided the great duties of conducting affairs with nations, that Japan may be kept at peace with all the world, and enjoy the honor and respect of every nation.

In the discharge of your high and honorable duties, it will be my greatest pleasure at all times to render you every possible assistance; and I sincerely hope that you will honor me by calling upon me for such assistance, whenever you feel that I can serve you. My Government has no higher or other desire than to maintain her present cordial

relations with your own, and to see Japan advance constantly in dignity and power. Thus, when I can in any way assist your government I will be carrying out the wishes of my own.

Our personal acquaintance, so pleasantly commenced, I sincerely hope may continue to grow more intimate and cordial as time passes.

Receive, my dear sir, the assurance of my highest respect and consideration.

C. E. DE LONG.

No. 5.

Ministers of Foreign Affairs to Mr. De Long.

[Translation.]

TOKEI, the 16th, 7th month, 4th year Miji.

YOUR EXCELLENCY: We have the honor to hastily bring to your knowledge the fact that, while the local government of Japan was hitherto divided into three classes, viz, Fu, Han, and Ken, that the title of Han is now entirely abolished and changed into that of Ken, for the future convenience of this nation.

With respect and consideration.

EWACKURA TOMONEI,
SERASHUNIA MUNVENORI,

His Imperial Majesty's Ministers for Foreign Affairs.

No. 6.

Mr. De Long to the board of Dainegons.

No. 22.]

LEGATION OF THE UNITED STATES OF AMERICA.

YOUR EXCELLENCIES: The undersigned, envoy extraordinary and minister plenipotentiary of the United States of America in Japan, in accordance with the privileges allowed by the laws of your empire, begs leave to address, in a most respectful manner, to your high and honorable body this appeal from the action and conclusions of the minister for foreign affairs of your empire, in a certain matter of business that he has had occasion officially to place before them. The undersigned begs leave to assure your excellencies that, in addressing this appeal to you, he does so in no spirit of complaint or fault-finding with their excellencies, the ministers for foreign affairs, or with any of them, with all of whom the undersigned has ever sustained, and trusts always be able to sustain, the most cordial and friendly relations. Neither is the undersigned moved to take this appeal by any sense of the importance or necessity for haste that there is attending to the settlement of the special matter upon which this appeal is founded, but the undersigned thinks that the present *system* pursued by your government, in its management of affairs of this nature, is grievously faulty; and with a view of being able to convince you that reforms are needed, and of showing you in what manner the reforms desired might be worked, this appeal is taken.

The undersigned begs leave, therefore, to premise by advising your excellencies of certain rules and principles that obtain in American and European countries, in meting out justice and settling disputes between people, whether native or alien, and the reason why such rules are followed.

One of the first objects of all law is to mete out justice; another object is to make justice pursue quickly on the heels of wrong; for justice delayed often fails to properly indemnify the injured party, especially in business transactions; therefore, when a system is found to be so faulty that a wrong-doer may, for a long time, by tricks and artifices avoid doing justice, it should be so remodeled as to permit the officers of the law, whose duty it is to see justice done, to prevent such unreasonable delays. The next object of the law is, in all cases, to ascertain the truth. To do this, in judicial investigations, it has for a long time been admitted by the jurists and statesmen of all civilized countries that witnesses, men called upon to declare the truth about transactions within their knowledge, should be subject in their examinations relative to such matters to examination and cross-examination, by and in the presence of both the parties to the controversy. In this way the conscience and knowledge of the witness is best sifted, so that the judicial eye can the clearest see the truth. Another object our law has in view, in the adoption of rules for the government of trials, is that thus all claimants and defendants are treated *alike*, and none may complain of the course that is pursued with all.

To that end, when one person wishes to commence in our courts a civil action for the

enforcement of a claim for money or damages against another, our law compels him to file a written statement of his grievances, stating concisely who his claims are against, and upon what grounds he asks for his relief. The court then issues a writ called a summons, notifying the party complained of (called by us the defendant) of the complaint made against him, and of the relief or judgment that is asked, and notifies him to appear within some certain specified time, (usually regulated by the distance where he is when he is summoned from where the court sits before which he is to appear.) and file with the court his written reply, if he has any to make, to the complaint filed against him. If he fails to obey this summons, in some cases our courts, without further investigation, decree the complainant the relief he seeks; or the court may, notwithstanding the defendant offers no defense, call upon the complainant to prove his case before awarding him a judgment.

If the defendant in reply to the summons admits the truth of the complainant's statement, judgment is at once rendered against him. If, however, he answer, denying in whole or in part the complaint of the complainant, the court causes at once a copy of his reply to be given to the complainant, so that he may know which of his statements stand contradicted, and may, therefore, correctly judge what he will be called upon to prove. Thus he is saved the necessity of going to the expense of procuring witnesses to prove uncontroverted assertions. Then the cause is set for trial at a certain place on a certain time, and both parties are notified to be there present with their witnesses. At that time the examination proceeds in the presence of the court, which first hears the witnesses for the complainant and then those for the defendant, and finally any additional evidence that may be proper.

When a party who produces a witness has concluded his examination of him, the other party is allowed to question him, and thus in the presence of the court a witness is often detected in telling an untruth, the sagacity of the court being aided and reinforced by the knowledge of the opposite party who is interrogating the witness. After such examination the court renders judgment by the light of the law, to which all must cheerfully submit. This course, to which all foreigners are accustomed, is not followed by either your local governors or ministers, to whom consuls and representatives are compelled to address the demands of their countrymen for examination and determination. No known rules in regard to the time within which cases will be tried and decided, or rules of evidence by which causes are determined, are published and made known so as to be understood by foreign officers, who are, therefore, compelled constantly to grope in the dark in transacting business of this nature with your government.

Your courts examine by themselves, unknown to us, the defendant and his witnesses; we do not even know what is in dispute or what is necessary or unnecessary for us to prove. While foreign officers are thus situated, in attempting to obtain legal redress for their countrymen against Japanese subjects, all foreign powers having treaties with Japan hold courts constantly open, governed by published and proclaimed rules and laws, that may be known to all, and Japanese claimants are kept constantly advised as to what time trials will be held, what they will be required to prove, and are allowed to be present to hear what the witnesses may have to say who testify against them and to ask of such witnesses all proper questions. In this way foreign tribunals mete out justice to Japanese subjects by the same rules that it is administered to the citizens or subjects of their own or other states. This system brings content and satisfaction to all classes, but, above all, it inspires the masses with respect for and confidence in the laws, and thus secures the ruler in his place by inspiring obedience. When, therefore, I present a claim or demand on behalf of any of my people at the Foreign Office, I should, I think, be given to understand within what time the officers, han, or individual complained against would be compelled to answer my complaints. When the answer is filed, I should, without delay, be furnished with a copy of it, and the cause set down for hearing at some certain time, within which the attendance of the necessary witnesses can be procured, and a trial follow, participated in by both parties, with all of the witnesses present. I can best illustrate the grievances of which I complain by stating the facts of the case upon which this appeal is based:

On the 28th day of May last, I presented to the minister of foreign affairs a claim of Messrs. Walsh, Hall & Co., American citizens, against the Uki han for some twenty-three thousand dollars, the value of a certain quantity of rice sold and delivered by them to that han under contract bearing the seal of the han. From time to time I inquired what had been done or was being done about this matter, and was answered that the governor of Kanagawa was investigating the case, under the direction of the Foreign Office; that his report might soon be expected, and then I would be fully advised, and thus the matter continued. I did not know, nor could I find out, what investigation was being made; whether our claim was disputed or admitted, and, if disputed, what grounds of defense were assigned; neither do I know at present. I was informed that it was alleged that the seal of the han had been stolen and used by a discharged officer. I urged upon the minister that we could prove that the han had

received our rice, and hence we ought to be allowed our money for it, regardless of whether the seal of the han was properly placed on the paper or not; hence, that I did not think it proper that our claim should be delayed pending an investigation which was being made, not to determine whether our claim was just or not, but to determine whether a certain man ought to be punished or not. I waited patiently until yesterday, when their excellencies informed me that the report of the governor had been received, but it was not satisfactory, and a further investigation had to be made.

When I inquired how long it would be before I could find out about this matter I was advised that no reply could be promised for thirty days. I then felt, and still feel, that such delays amount to a denial of justice. An investigation is pending that I am not allowed to participate in, or know anything about, and which is to decide a right of my countrymen.

One of the main witnesses on my behalf has been imprisoned by your authorities, and has died in prison; thus we are deprived of his evidence.

I have now no more assurance as to when I may expect judgment, or what kind of judgment I may expect, than I had three months ago; whereas, in the meantime, one of the officers, and the main one who conducted this business with Walsh, Hall & Co., is daily in our sight; even the other day was engaged in attempting to negotiate a large loan of money at one of the foreign banks in Yokohama, apparently having plenty of money, his full liberty, and fairly laughing to scorn all attempts to make him do justice.

This condition of affairs leads to immeasurable evils. Foreigners, in dealing with Japanese, are led thereby to charge them unreasonable prices for moneys loaned, or goods sold on credit, because they calculate the difficulties and delays in obtaining justice, and they increase their charges proportionally. They make secret and unreasonable contracts with Japanese, seeking to avoid and conceal their transactions from their own and the Japanese authorities, because of their fear of them, and their want of confidence in them.

Troubles are increased on every hand, not alone to the foreign, but to the Japanese authorities, and all because foreigners, not understanding your methods of settling disputes, are afraid to trust to your tribunals. Evil-minded persons spread about reports to the effect that subordinate officers in the departments, if paid money, will expedite or retard the collection of claims; hence some of them resort to attempts to bribe your officers, and if, in the conduct of their business, your officers decide against them, instead of being contented with their decisions, they are discontented and troublesome; they imagine that our officers have been corrupted, and so, constantly, false and infectious impressions are allowed to gain ground, to the injury of the good name of His Majesty's government abroad.

The injustice of allowing this condition of things longer to continue will be manifest to your excellencies when you read that clause in your treaty with the United States which reads as follows: "The consular court shall be open to Japanese creditors, to enable them to recover their just-claims against American citizens, and the Japanese courts shall in like manner be open to American citizens for the recovery of their just claims against Japanese." This clause of the treaty the American Government has fully and constantly carried out, whereas the Japanese government has wholly failed to do so.

I am aware that your government has taken steps to do so, and to that end has sent to my Government for men learned in the law to assist in this work but, pending the arrival of those people, and until such courts are established, the reforms that I suggest should be adopted. My Government does not desire that its representatives here should have anything to do with claims such as are ordinarily tried and determined in courts. It is business that in other lands, ministers have no connection with. Their duties are higher, and are confined to the management of diplomatic affairs exclusively, while here, seven-tenths of the business I have to do, and that is done by your minister for foreign affairs, is the settlement of claims and demands of a purely private nature. It is exceedingly unfitting that officers charged with the high and responsible duties of managing the diplomatic affairs of state, should be expected to daily try causes, and differ and dispute about mere private demands.

I have consented to, and followed this course, so far, to accommodate your government for the present, and until you have the time and the assistance necessary to enable you to open regular courts, where my countrymen may bring actions, try the same, and obtain civil redress in the usual manner. This labor, that I do gratuitously, that is so unpleasant in its nature, should be made by you as easy as possible; this is a simple act of justice, that I feel that I have a right to ask for and expect.

Observe, if you please, the great difference that exists between your system and that of my Government, and its different results. My people purchase of yours annually nearly the whole tea crop of Japan, amounting to millions of pounds; also large quantities of silk, cabinet-ware, bronze, &c.; and yet your people are rarely ever defrauded of their dues. The reason why this is so is because our judicial system is such that justice outsteps fraud, and evil-doers are deterred from attempting to do wrong by

the knowledge that they cannot escape with their ill-gotten gains. Thus you will observe that it is the *certainty* of punishment and the *speedy* retribution of our law that prevents wrongs.

Were the consular courts of the United States to be closed but for one month against Japanese creditors, and this fact become generally known among my people, I am of the opinion that evil-disposed men would defraud your people out of millions of dollars' worth of property. Hence you will observe that if I should allow myself to be governed by passion, or a desire to retaliate against you, for the non-fulfillment by you of that clause of your treaty above quoted, the greater loss by far would be with you, for your people sell more property to mine than they purchase from them. Such a thought as this has never entered for one moment into my mind, and has only been referred to here to show you what a disastrous result would follow such a course should I adopt it. When a Japanese creditor wishes to bring an action against an American creditor, he finds our consular courts always open and ready to receive his complaints. As soon as it is filed in the court, the party complained against is summoned to answer the demand; as soon as his answer is filed, the Japanese plaintiff is advised of its nature, and can have a copy of it, if he desires; if the defendant admits that he owes the money, a judgment is at once entered against him, and his property is at once seized to satisfy the judgment. If he denies the demands, a day is set for the trial of the action; the plaintiff at once advised, and invited to be present with his witnesses. He knows from the answer of the defendant just which portion of his assertions in his complaints are denied, and which are admitted; he, therefore, knows that he will only be expected to prove those in dispute, and he is saved the necessity of bringing numerous witnesses. At the trial he hears what the defendant's witnesses say, and has the privilege of asking them questions; thus truth is elicited, and justice done. May I not with propriety ask of your high and honorable body the adoption of some such rules governing the conduct of this kind of business in your Foreign Office? I ask it with all due respect to your excellencies, ministers for foreign affairs, whose labors in the dispatch of this kind of business are most severe and continuous. I willingly accord to them all praise for their uniform courtesy, integrity, and assiduity, but the system they are compelled to follow, while it materially increases their labors, as well as my own, subjects them, as well as myself, to constant complaints made by people pressing for a settlement of their claims.

I have, &c., &c.,

C. E. DE LONG.

No. 269.

Mr. De Long to Mr. Fish.

No. 239.]

UNITED STATES LEGATION,

Yokohama, Japan, September 4, 1871. (Received October 16.)

SIR: I have the honor to advise you of the safe arrival in this empire, by the last steamer, of General Capron, with his staff, composing the scientific commission; also, by the same steamer, Lieutenants Wasson, Dunwoodie, Jones, Hoag, and Poillon, all in good health.

General Capron, Lieutenants Dunwoodie, Wasson, and others produced to me your letters, as also those of Messrs. Davis and other officers, and I did all in my power, and will continue to do all I can conveniently for all of these gentlemen.

I trust, however, you will bear in mind that one clause contained in the printed instructions furnished me, when I was appointed to this position, provides, "that I shall recommend no citizen of the United States for any position under the government to which I am accredited."

This clause of my instructions I have always respected as strictly as all others; but in the matter of these gentlemen, I have accepted the letters received as a special license, and I have gone far enough, at least, to aid them somewhat.

General Capron and staff have been most cordially and honorably received. They have already been called upon by most of the govern-

ment authorities, and from those officers highest in power, and whose opinion I most value. I learn that all are favorably impressed with the general and assistants.

I have been active in my operations to influence the government to give to this commission the widest possible range for its labors, and I feel sure that, in the highest degree, the commission will prove a success so complete that it will most materially aid in stimulating the tide of good feeling now setting in so strongly in Japan for our country and its people.

Mr. Ewackura, the new minister for foreign affairs, in our interview yesterday, spoke of the commission with great pride and pleasure as having been sent by the United States Government to Japan; that is, that the United States Government, out of kindness for Japan, had spared and sent out of its high offices this commission, for which they felt greatly obliged, and wished me so to assure you.

The commissioners are now temporarily quartered in the "Siba Temples," those temples so noted as being the finest in Japan, and also as being the burial-place of the tycoons.

I called on the general there yesterday, and found him surrounded with all comforts and convenience, in high spirits, and looking hopefully forward.

I rejoice in the arrival of this commission; it will greatly aid my efforts here, I am sure; but what is still more desirable, it will cause our people to study more closely this country and its people, and the more quickly arouse them to the realization of the fact that Japan is a great nation, well deserving the most earnest efforts to be assisted in its march from the barbarism of the past centuries to the high civilization to which it is now in some degree tending, and to achieve which seems now to be the controlling passion of its statesmen.

I have the honor, &c.,

C. E. DE LONG.

No. 270.

Mr. Davis to Mr. De Long.

No. 114.]

DEPARTMENT OF STATE,

Washington, October 17, 1871.

SIR: I have to acknowledge the receipt of your dispatch of the 4th ultimo, No. 239, containing the gratifying intelligence of the arrival of General Capron and his assistants, and their cordial and hospitable reception by the Japanese government.

With reference to the restriction referred to by you, as to the recommendation by our diplomatic and consular agents of citizens of the United States for any positions under the government of the countries in which they may be residing, I have to inform you that it is satisfactory.

Upon the convening of Congress the Department will submit a copy of your dispatch, now under consideration, to the proper committees of the two Houses.

I am, sir, your obedient servant,

J. C. B. DAVIS,
Acting Secretary.

No. 271.

Mr. De Long to Mr. Fish.

No. 241.]

UNITED STATES LEGATION, HAKODADI,
Japan, October 8, 1871. (Received November 25.)

SIR: In view of the near meeting of Congress, of the increasing duties of my office, and of the present position of this legation, I beg leave, with due respect, to urge again upon your attention and that of the President, the necessity for some reforms in legislation affecting my office.

In a few months the treaties between the United States and Japan are to be revised. This will add greatly to the labors of my office, as constant conferences with my colleagues and with the Japanese authorities must ensue; to keep you well advised of these proceedings an immense amount of writing will have to be done. In addition to this the judicial business of my legation increases monthly, there being now in my court some half dozen cases on my trial calendar, some of them involving very large amounts, and necessitating long trials. These considerations make it almost a necessity that I should be allowed a secretary of legation.

That I need an interpreter is of course true; for, otherwise, I am at the mercy of those I deal with or dependent on the charity of my colleagues.

That it is impossible to get a competent person to act as both secretary and interpreter for a salary of \$2,500 per year is a fact that my efforts for the last year fully attest.

What I ask for very earnestly is a secretary, at a salary of \$3,000, and an interpreter, at a similar salary. If this cannot be allowed, let the office be made that of secretary and interpreter, at a salary of, say, \$5,000 per annum.

This latter course would be better than nothing, but still not what is needed, for my interpreter cannot well fill both offices. He cannot carry on a conversation and write at the same time, neither can I find any person here whom I could recommend as an interpreter, whom I would also be willing to recommend as secretary, who would accept the position.

The secretary, I submit, should be a commissioned officer competent to take charge of the legation in case of a minister's absence or death, and also competent by his counsel and advice to assist his chief and aid in the transaction of business.

An interpreter, on the contrary, need not be a man of any commanding ability or of great qualifications, but need only be conversant with the language; but should at the same time, as I think, be immediately subject to the minister, liable to removal by him, at once, if found abusing his position or plotting with others for gain.

I hope that this request of mine may find favor and be recommended to Congress.

I shall take Mr. Nathan E. Rice with me as interpreter, and give him a trial. If I find that he is sufficiently conversant with the language, and he is disposed to serve for the salary allowed after trial, I will so advise you.

I hope that I may be allowed by Congress to draw for the undrawn appropriation for the last year for this office of interpreter, to pay Dr. Hepburn for the time he served, and also to pay Mr. Rice for such services in this capacity as he may render.

I have the honor to be, sir, your most obedient servant.

C. E. DE LONG.

MEXICO.

No. 272.

Mr. Fish to Mr. Nelson.

No. 123.]

DEPARTMENT OF STATE,

Washington, November 16, 1870.

SIR: Your dispatch No. 292, dated September 29, has been received.

The accountability of the Mexican government for the losses sustained by citizens of the United States from the robbery and exactions committed at Guaymas, in May last, by the armed force under the command of Fortino Viscaino, seems to be unquestionable. That person was a subordinate of Placido Vega, as appears by the orders of the latter to him, dated at Teacapan the 18th of May. Those orders directed Viscaino to proceed in the vessel (meaning the *Forward*) and perpetrate the very acts complained of. The orders were fulfilled. It is true that Mr. Sisson, the United States consular agent at Mazatlan, in his letter to you of the 13th of June, represents that since the evacuation of Mexico by the French the government of that republic had had no other authority in the canton of Tepic, where the expedition of the *Forward* was organized and whence it proceeded, than that connived at by one Manuel Lozada, of whom Placido Vega is supposed to have been an instrument. Mr. Sisson, however, acknowledges that the general government had appointed a collector and other officers in that quarter, but adds that they are creatures of Lozada. He also says that he had been informed by General Davalos, the commander at Mazatlan, and by Mr. Sessalveda, the inspector of the customs there, that the general government had directed that its troops must not invade the territory of Lozada. Whether this be a fact or not, that government, so long as it shall claim jurisdiction over that territory, must be held responsible for any injuries to citizens of the United States, there or elsewhere, by any force which may have proceeded from the same territory.

In times of peace redress for such injuries may, in the first instance at least, be sought through the judicial tribunals of the country where they may have been committed. When, however, they are silenced or overawed by the force of arms, it seems a mockery to be referred to them, especially if there should be any ground for the charge that the Mexican government has willfully connived at a defiance of its authority in the canton of Tepic.

You will, consequently, in a courteous way, make known to the minister for foreign affairs our views on this subject. The case will be taken into further consideration when the Department shall have received the reply which he may make.

I am, &c.,

HAMILTON FISH.

No. 273.

Mr. Fish to Mr. Nelson.

No. 128.]

DEPARTMENT OF STATE,

Washington, December 12, 1870.

SIR: A letter of the 7th instant has been received at this Department from the Secretary of War, in which it is stated that the depredations committed by bands of hostile Texan Indians, chiefly located in

the Guadalupe Mountains, upon the settlements of the Rio Grande from El Paso to Del Norte, compel the authorization of military operations against them, which can only be successfully carried on in the winter season and with the co-operation of the Mexican authorities. I inclose herewith a transcript of the letter of the Secretary of War, above referred to, and have to request that you will endeavor to obtain the consent of the national government in the direction indicated. An authorization for the government of the State of Chihuahua to communicate and co-operate directly with the commander of the subdistrict of the presidio, whose headquarters are at Fort Davis, Texas, permitting, if need be, the troops of the United States to follow the Indians into Mexican territory, and using the Mexican troops to intercept the Indians in their flight, would seem to be especially desirable.

I am, &c.,

HAMILTON FISH.

[Inclosure.]

Mr. Belknap to Mr. Fish.

WAR DEPARTMENT,
Washington City, December 7, 1870.

SIR: The depredations committed by bands of hostile Texan Indians, chiefly located in the Guadalupe Mountains, upon the settlements of the Rio Grande from El Paso to Del Norte, compel this Department to authorize military operations against them, and these operations can only be carried on successfully in the winter season of the year. It is believed that these Indians can be driven from their haunts, but only into Mexico, and it therefore becomes necessary to seek the co-operation of the authorities of that republic. If the national government of Mexico will consent to authorize the governor of the State of Chihuahua to communicate and co-operate directly with the commander of the sub-district of the Presidio, whose headquarters are at Fort Davis, Texas, permitting, if need be, the troops of the United States to follow the Indians into Mexican territory, and using the Mexican troops to intercept the Indians in their flight, it is expected that a winter campaign will so cripple the power and subdue the spirit of the marauders as to afford sensible relief from apprehension of danger and actual loss of life and property to the exposed citizens of both countries.

It is understood that the authorities of the State of Chihuahua are favorably disposed toward the plan herein described, and if the necessary order and authority for their direct co-operation can be obtained without delay, it will enable the operations to be pursued this present winter.

Very respectfully, &c.,

W. W. BELKNAP.

No. 274.

Mr. Nelson to Mr. Fish.

No. 328.]

LEGATION OF THE UNITED STATES,
Mexico, December 22, 1870. (Received January 14.)

SIR: The Mexican congress during its recent session failed to consummate, by appropriate legislation, the extension of the free zone, and adjourned on the 15th instant, leaving the tariff bill, of which the free zone forms a part, in an unfinished state.

In order to ascertain from an official source the present legal status of this question, on the 21st instant, I addressed a note to the minister of the treasury, inquiring if the action of the congress at its recent session had resulted in the extension of the free zone, and if further legislation was not required before the extension could become a law, (A.)

On the same day Mr. Romero replied that the congress of the union approved, in the session of the 5th of November, the fifty-third article of the tariff bill, which decrees the subsistence of the free zone and its extension to the northern frontier, and that in the session of the 7th of the same month, the proper committee withdrew the fifty-fourth article of the bill, in order to present it in another form. It was not presented, however, during the remainder of the session, nor did congress finish the discussion of the tariff bill; consequently it remains pending for the next session. Mr. Romero further says that, although a portion of the bill was sanctioned by congress, as it was not finished, nor sent to the executive for promulgation, it cannot be enforced, even in regard to the portion sanctioned. For this reason, although the article relating to the extension of the free zone was approved by congress, it cannot be enforced until the remaining articles are approved and sent to the executive for promulgation. This cannot, in any case, be done until the next session, which will commence on the 1st day of April, 1871, (B.)

A new congress will be elected in June next, which, it is to be hoped, will exhibit a more judicious and enlightened policy upon this important subject, more in conformity with the wise statesmanship of the executive department of the government.

Your obedient servant,

THOMAS H. NELSON.

Inclosures.

A.—Mr. Nelson to Mr. Romero.

B.—Mr. Romero to Mr. Nelson.

C.—Translation of the same.

A.

Mr. Nelson to Mr. Romero.

LEGATION OF THE UNITED STATES,
Mexico, December 21, 1870.

MY DEAR SIR: Please inform me what is the present legal status of the free zone. Did the action of the Mexican congress at its recent session result in the extension of the zone, and is not further legislation required before the extension becomes a law?

An early answer will greatly oblige,

Very respectfully,

THOMAS H. NELSON.

C.

Mr. Romero to Mr. Nelson.

[Translation.]

MEXICO, *December 21, 1870.*

MY ESTEEMED SIR: I have just received your letter of this date, in which you ask me two questions in regard to the free zone.

I have the honor to state, in reply to these questions, that the congress of the union approved, in the session of the 5th of November last, the fifty-third article of the tariff bill, which decrees the subsistence of the free zone and its extension to the northern frontier, and that, in the session of the 7th of the same month, the proper committee withdrew the fifty-fourth article of the same bill, in order to present it in another form. It did not present it during the remainder of the session, nor did congress finish the discussion of the tariff bill, consequently it has remained pending for the next session. Although a portion of the bill was sanctioned by congress, as it was not finished, nor sent to the executive for promulgation, it cannot be enforced, even in regard to the portion sanctioned. For this reason, although one of the articles of the bill which re-

lates to the free zone was approved by congress during its last session, this article can not be put in practice until the approval of the remaining articles and the sending of the whole tariff, or at least the part already voted, to the executive for its promulgation. This cannot be done, in any case, before the next session, which will commence on the 1st of April, 1871.

I am, &c.,

M. ROMERO.

No. 275.

Mr. Nelson to Mr. Fish.

No. 336.]

LEGATION OF THE UNITED STATES,
Mexico, January 10, 1871. (Received January 25.)

SIR: On the 4th instant I addressed a note to the secretary for foreign affairs, in which I inclosed a copy of your dispatch dated December 12, 1870, relating to the depredations committed by bands of hostile Indians, chiefly located in the Guadalupe Mountains, upon the settlements of the Rio Grande from Paso del Norte downward. I also inclosed a copy of a communication from the Secretary of War to the Department of State, dated December 7, 1870, on the same subject. In compliance with my instructions, I asked the Mexican government to consent to adopt the suggestions of the Secretary of War in respect to the said Indians, and to authorize the government of the State of Chihuahua to communicate and co-operate with the commander of the sub-district of the presidio at Fort Davis, and, if necessary, to permit the troops of the United States to follow the Indians into Mexican territory and, with the aid of the Mexican troops, to intercept the Indians in their flight. In view of the emergency, requiring immediate action in the premises, I invoked the favorable answer of the Mexican government with as little delay as possible, (A.)

On the 7th instant, Mr. Lerdo replied that, desiring to co-operate so far as depends upon the executive in the plan proposed in my note and the inclosures, the President has decided to authorize the government of the State of Chihuahua to communicate with the commander of the sub-district of the presidio at Fort Davis, and to co-operate with him toward the success of the proposed plan, causing the forces which the governor of Chihuahua may employ for the purpose to intercept the flight of and to pursue the said hostile Indians who may flee to Mexican territory. With this object, Mr. Lerdo says he has communicated this authorization to the governor of Chihuahua, and also to the war department, recommending to the latter that, in order to take advantage of the present winter season, the said governor should be charged to lend efficient co-operation to the proposed plan with all the forces at his disposal. In regard to the permission for the troops of the United States to follow the said Indians into Mexican territory, the secretary adds that the executive has not the power to grant it, as the constitution of Mexico reserves that right to congress, which is not now in session, but will again meet on the 1st of April next, and that if I will then make it known that such permission is still desirable the subject will, in that case, be submitted to that body, (B and C.)

In this connection I beg leave to call the attention of the Department of State to the proposition of the Mexican government contained in the note of the secretary for foreign affairs, dated April 16, 1870, which was inclosed in my dispatch No. 216, (*bis*), concerning the removal of certain fragmentary bands of Indians from Mexico to their proper reservations

within the territory of the United States. In that note Mr. Lerdo said that "the government of Mexico can co-operate with pleasure in furthering the object of the Government of the United States of America, an object both just and humane, the preventing of the depredations which the scattered bands of Indians are in the habit of committing on the frontier. This co-operation can consist in this, that if the Government of the United States should think proper to give notice of the time and place of the arrival on the frontier of the agents who may be sent to visit and unite the scattered bands of Indians, the government of Mexico would, at the proper time, place a force at the point designated to give to such agents the aid desired."

It is to be hoped that the Congress of the United States, during its present session, in the interests of humanity and for the peace and prosperity of the frontier, will make the necessary appropriation for the removal of the said Indians from the soil of Mexico to their reservations within our own territory.

Your obedient servant,

THOS. H. NELSON.

Inclosures.

A.—Mr. Nelson to Mr. Lerdo.

B.—Mr. Lerdo to Mr. Nelson.

C.—Mr. Lerdo to Mr. Nelson. (Translation.)

A.

Mr. Nelson to Mr. Lerdo.

LEGATION OF THE UNITED STATES,
Mexico, January 4, 1871.

SIR: I have the honor to inclose a copy of a dispatch from the Secretary of State of the United States, dated December 12, and also a copy of a communication from the Secretary of War of the United States, dated December 7, both of which relate to the depredations committed by bands of hostile Texan Indians, chiefly located in the Guadalupe Mountains, upon the settlements of the Rio Grande, from El Paso to Del Norte.

The Secretary of War states that his Department is compelled to authorize military operations against these Indians, which can only be successfully carried on in the winter season; that they can be driven from their haunts, but that they will flee to Mexican territory, and that therefore it becomes necessary to seek the co-operation of the authorities of the republic of Mexico. The Secretary of War further says that if the national government of Mexico will authorize the government of the State of Chihuahua to communicate and co-operate directly with the commander of the sub-district of the presidio, whose headquarters are at Fort Davis, in the State of Texas, permitting, if need be, the troops of the United States to follow the Indians into Mexican territory, and using the Mexican troops to intercept the Indians in their flight, it is expected that a winter campaign will so cripple the power and subdue the spirit of the marauders, as to afford sensible relief from apprehension of danger and actual loss of life and property to the exposed citizens of both countries.

The said Secretary is advised that the authorities of the State of Chihuahua are favorably disposed toward the plan indicated, and that if the necessary order and authority can be obtained without delay, for their direct co-operation, it will enable the operations to be pursued this present winter.

In compliance with the instructions of the Department of State of the United States, I respectfully request that your excellency's government will consent to adopt the suggestions of the Secretary of War, in respect to the said Indians, and to authorize the government of the State of Chihuahua to communicate and co-operate with the commander of the sub-district of the presidio, at Fort Davis, and if necessary to permit the troops of the United States to follow the Indians into Mexican territory, and with the aid of the Mexican troops to intercept the Indians in their flight.

In view of the emergency which requires immediate action in the premises, I beg leave to invoke the favorable answer of your excellency's government with as little delay as possible.

I have the honor, &c.,

THOMAS H. NELSON.

C.

Mr. Lerdo to Mr. Nelson.

[Translation.]

DEPARTMENT OF FOREIGN AFFAIRS.

Mexico, January 7, 1871.

SIR: I have the honor to reply to your excellency's note of the 4th instant, with which you sent me annexed copies of a dispatch from the honorable Secretary of State, and of a note from the honorable Secretary of War of the United States of America, dated respectively the 12th and the 7th of December last, both relating to the depredations committed by bands of hostile Texan Indians, chiefly located in the Guadalupe Mountains, upon the settlements of the Rio Grande from Paso del Norte downward.

In these two notes the necessity is set forth of undertaking military operations against those hostile Indians, which can only be successfully carried on in the winter season; the probability that, on being pursued, those hostile Indians would take refuge in Mexican territory; the necessity of seeking the co-operation of the authorities of the State of Chihuahua; the convenience of their being authorized by the national government of Mexico to communicate and co-operate with the commander of the sub-district of the presidio, whose headquarters are at Fort Davis, in the State of Texas, permitting, if need be, the troops of the United States of America to follow these hostile Indians into Mexican territory, and using the Mexican troops to intercept them in their flight, and the information had that the authorities of the State of Chihuahua are favorably disposed toward the plan indicated.

Desiring to co-operate, so far as depends upon the executive of Mexico, in the plan proposed in your excellency's note and its inclosures, the President has decided to authorize the government of the State of Chihuahua to communicate with the commander of the sub-district of the presidio, whose headquarters are at Fort Davis, Texas, and to co-operate with him toward the success of the proposed plan, causing the forces of the said governor of the State of Chihuahua may employ for the purpose, to intercept the flight of and to pursue the said hostile Indians who may flee to Mexican territory.

With this object I communicate this authorization to the governor of the State of Chihuahua, and also to the War Department, recommending to the latter, that in order to take advantage of the present winter season, it immediately charge the said governor to lend efficient co-operation to the proposed plan with all the forces at his disposal.

As to the permission for the troops of the United States of America to follow the hostile Indians who may flee into Mexican territory, the executive has not the honor to grant this permission, as the constitution of Mexico reserves it to congress, which is not now in session, but will again meet on the 1st of April next. Therefore, if your excellency shall then make known that such permission is still desirable, it will in this case be submitted to congress.

I have the honor, &c.,

S. LERDO DE TEJADA

No. 276.

Mr. Nelson to Mr. Fish.

No. 342.]

LEGATION OF THE UNITED STATES,
Mexico, January 23, 1871. (Received February 11.

SIR: I inclose a copy of a communication, dated the 11th instant, from our consul at Minatitlan, informing me that Colonel J. J. Williams and his corps of engineers, assisted by all the federal and local authorities, broke ground on the 9th instant near Minatitlan for the Tehuantepec Railway, carriage-road, and telegraph line.

Your obedient servant,

THOMAS H. NELSON

Mr. Hoyt to Mr. Nelson.

CONSULATE OF THE UNITED STATES OF AMERICA.

Minatitlan, January 11, 1871.

SIR: I have the honor to inform you that Colonel J. J. Williams, and his corps of engineers, assisted by all the federal and local authorities in this port, broke ground for

New York Tehuantepec Railway, carriage-road, and telegraph line at a point about half a mile from this place, on the 9th of the present month. I had the honor of being present. The ceremony, including the speech of Colonel Williams, was very interesting, and was well attended by natives and foreigners.

I have the honor, &c.,

R. C. M. HOYT,
United States Consul.

No. 277.

Mr. Nelson to Mr. Fish.

No. 348.] LEGATION OF THE UNITED STATES,
Mexico, January 23, 1871. (Received February 15.)

SIR: I herewith transmit further information concerning the cruise of the steamer *Forward*, consisting of a copy of a note from me to our consul at Guaymas, dated October 1, 1870, (A;) also an extract from a communication from the said consul dated November 14, 1870, (B;) also a copy of a communication of the said consul dated November 18, inclosing a letter from Charles J. Jansen, (C;) also a copy of the said letter, (D;) also a copy of a communication from the said consul dated November 18, in reply to my interrogatives, (E;) also a translation of the official account, by authority of the federal custom-house at Guaymas, of the raid of the *Forward*, (F;) also an extract from a private letter from our consul at Guaymas dated July 10, 1870, (G.)

These papers and documents, in connection with those I have heretofore sent, will perhaps be sufficient to settle the questions as to whether the government of Mexico should be held liable for the damage inflicted by the *Forward*, and whether, in fact, any property belonging to American citizens was seized or destroyed by her officers or crew.

Your obedient servant,

THOMAS H. NELSON.

Inclosures.

- A.—Mr. Nelson to Mr. Willard.
- B.—Mr. Willard to Mr. Nelson.
- C.—Mr. Willard to Mr. Nelson.
- D.—C. J. Jansen to Mr. Willard.
- E.—Mr. Willard to Mr. Nelson.
- F.—Translation of official account from custom-house at Guaymas.
- G.—Private letter from Mr. Willard to Mr. Nelson.

A.

Mr. Nelson to Mr. Willard.

LEGATION OF UNITED STATES,
Mexico, October 1, 1870.

SIR:

In your dispatch No. 20, of July 10, 1870, and also in a private letter of the same date, you state that "no American property or citizens were molested" by the *Forward* at Guaymas. Please report to this legation whether you have subsequently learned that American citizens sustained any losses by the raid. If so, please state the name and place of residence of each person, and the amount of injury he suffered. Did the commander of the expedition show to you or give you a copy of the order (alluded to in his note to you of May 29) of Mr. Louis Schumacher, of San Francisco, authorizing him to take possession of certain fire-arms, the property of the said Schumacher? If a copy of the said order can be obtained please transmit it to me.

Have you any information concerning the real object of the Forward when she left San Francisco? Was there any arrangement or understanding between Placido Vega and the owners or officers of the Forward before she sailed, or afterwards, in regard to the purposes of the expedition? Was the charter-party which was signed by Charles J. Jansen and others in San Francisco executed in good faith? Have you any reason to believe that Captain James C. Jones was implicated with Vega or Vizcayno?

Please respond to these inquiries at your earliest convenience.

I remain, &c.,

THOMAS H. NELSON.

B.

Mr. Willard to Mr. Nelson.

[Extract from a letter from A. Willard, esq., United States Consul at Guaymas, dated November 14, 1870.]

For the want of time (as there is only three hours from the arrival to the departure of the mail) I cannot possibly answer in detail the questions which you ask about the steamer Forward, (although there is but little more to communicate than what I have previously written.) I will by the mail of the 18th proximo address you more at length on this subject. As mentioned in my dispatches, no American goods or citizens "were molested" further than those mentioned as belonging to the house of Rodger, Meyer & Co., of San Francisco, known as an English house, whose goods were taken or seized at the house of Ortiz Hermanos, along with other consigned goods from Mazatlan. These goods of the said house of Rodger, Meyer & Co., may be American goods. As yet nothing has been done toward presenting proofs of the same, by the owners, with the view of making reclamations. A protest was made at the time of seizure, against the act of Colonel Vizcayno, by a clerk of the house of Ortiz Hermanos, but since then nothing has been done through the medium of this consulate either by the partners, Ortiz Hermanos, or the owners of the goods.

The order to take the fire-arms which Colonel Vizcayno stated he possessed from the owner, Mr. L. Shumacher, was not shown me, nor do I know of any one in Guaymas or elsewhere who saw it.

No notice was taken of my request for a copy of the same, which was one of the causes of my refusing to withdraw my protest, when requested verbally to do so by the aid of Colonel Vizcayno.

Your obedient servant,

A. WILLARD.

C.

Mr. Willard to Mr. Nelson.

CONSULATE OF THE UNITED STATES OF AMERICA,
Guaymas, Mexico, November 18, 1870.

MY DEAR SIR: I enclose you herewith a private letter from Charles J. Jansen, received by me in September last; and as it refers to one of the inquiries answered in my dispatch of this date, I send it, so that you can see what he says in relation to the Forward. I am not personally acquainted with Mr. Jansen, and have never seen him to my knowledge, and the only letter received by me from him, previous to the one now inclosed, was in regard to a permit to ship ore (copper) from the copper mines on the Lower California coast, in which he was interested. To my reply to the enclosed letter I have received no acknowledgment. All that I know about Jansen is from hearsay, and he is represented as an energetic man of business, and has been connected with this coast in ships and shipping for some years.

The authorities view him as a friend of Vega, and believe him implicated more or less, but have not the proofs sufficient to make it clear. As Captain Jones was tried at Mazatlan and released, the facts elicited at the trial could be (and perhaps have been) sent you by our commercial agent at that place.

Your obedient servant,

A. WILLARD.

D.

Mr. Jansen to Mr. Willard.

SAN FRANCISCO, July 21, 1870.

DEAR SIR: I had this pleasure months ago; this time on a more painful subject.

You are too well acquainted with the raid on your city in the steamer *Forward* for me to repeat. A strong impression, I have reason to believe, exists in your city and Mazatlan, that in some manner or other I am or was in collusion with the enemies of the federal authorities of Mexico, and particularly those of the States of Sinaloa and Sonora, and who possessed themselves of the steamer *Forward*, on no other ground, to my knowledge, in theory or fact, than that I fitted that steamer and dispatched her from here.

The *Forward* left here on as legitimate a voyage and enterprise as ever a vessel left this port. A thorough investigation in this respect, had at Mazatlan on her arrival there, should divest all fair-thinking minds of all doubts. If no other in theory, such impression is still more absurd, since it was equally convenient to have dispatched the steamer to San Blas, the headquarters of the revolutionary party, as to Mazatlan. The fact is that public as well as private information all tended if not full assurance that Placido Vega had abandoned all hope of further disturbing the public peace, and had retired to private life at the time the steamer *Forward* left San Francisco, and she was sent to Mazatlan in preference to San Blas as a further guarantee of protection, and to prevent being tainted even with suspicion; and in my opinion there was collusion between Vega or his adherents and the liberal authorities of Mazatlan, in contriving to take Captain Jones away from the steamer, without at the same time providing protection for the boat, virtually taking her out of his and the owners' hands; and but for this (indicating the course for Vega to pursue) the misfortune would never have happened.

I make this explanation to you in hope that my name and character may not suffer at your hands in a private or national character. If I have succeeded in convincing you, I feel solicitous for your influence with others of your place whose good opinion I highly esteem.

I understand that five or six of the crew of the ill-fated *Forward* will be or have been sent to your city for trial. By what I can learn from those returned here, Holden, the mate, is grossly culpable and deserves little sympathy. The theory of the men returned here for acquiescing in proceeding in the *Forward* is that she should or was to go to Altata, for which she was said to have a clearance, there take in specie and other freight, and from there proceed direct to this port; and that the destination was Guaymas they had no knowledge until compelled by force.

I will not hold myself responsible for any expense or liability contracted by the crew of the steamer *Forward* that were taken at her destruction, and remain very truly, yours,

CHARLES J. JANSEN.

E.

Mr. Willard to Mr. Nelson.

CONSULATE OF THE UNITED STATES OF AMERICA,
Guaymas, Mexico, November 18, 1870.

SIR: I have the honor, agreeably to my last dispatch of the 14th instant, of answering more in detail the questions asked in your communication of October 1 last, pertaining to the raid on this port (28th of May) by the faction of Vega, commanded by one Colonel Fortunato Vizeayno, brought here by the steamer *Forward*.

1st. "To report whether I have subsequently learned that any American citizens sustained losses; and if so, to state the name, place of residence, amount," &c.

As mentioned in my former dispatches, no United States citizens residing here were molested or their property injured, excepting as far as the federal custom-house duties are concerned; all of said duties unpaid and pending were paid by the merchants irrespective of nationality, they being called to the custom-house by Vizeayno in the name of the collector, who at the time was a prisoner. The firm of Roundtree & Lubbuk paid \$1,000, the amount due by them for duties, and W. H. Behrendt \$1,400, the same being due. These are the only United States citizens who had duties pending; they refused to pay until the proper receipt, (*carta pago*), duly signed by the collector and other officers, was furnished them, and which was done, the same kind of receipt being given to all on payment of the amount due for federal duties.

Goods seized.—The house of Ortiz Hermanos was the only house which sustained loss by forcible seizure, Vizeayno notifying the said house to pay him the sum of \$25,000,

or he would take goods by force to double that sum. No one appearing to represent the house, on the evening of the 29th of May an officer of Vizcayno presented himself at the store-house and demanded that the doors should be opened, which was done by a clerk of the house, and goods of various classes taken, amounting in the aggregate to \$40,000. (I herewith inclose, marked No. 1, a list of the same furnished by one of the partners of the said Spanish and Mexican commission-house of Ortiz Hermanos, a copy of the same being on file in this consulate.) A protest was made at the time before me by a clerk of the said house against this act of Vizcayno. Among the goods thus taken were a portion of those consigned to Ortiz Hermanos from the house of Rodger Meyer & Co., of San Francisco, California. This house, I am informed, is known in San Francisco as an "English importing house." One of the founders of the firm—Rodgers, an Englishman—having died some years ago, an interest in the house was purchased by an American named Dean; still the "firm name" remains unchanged. Meyer, one of the partners, I am informed, is a German. As mentioned in my dispatch of the 14th instant, the goods of the said house of Rodger, Meyer & Co. may be American property, but as yet nothing has been done through the medium of the consulate or otherwise, that I am aware of, in presenting proofs of the nationality of the said firm, either by Ortiz Hermanos or by the said firm itself.

2d. "Did the commander of the expedition show or give a copy of the order (alluded to in his note to this consulate dated May 28) of Mr. Louis Schumacher, of San Francisco, authorizing him to take possession of the fire-arms, the property of the said Schumacher? and if so, and it can be obtained, transmit a copy of the same."

This order (if one existed) was not shown to me, nor do I know of any one who says that they saw it; and no notice was taken of my request for a copy of the same, and, as mentioned in my dispatch of the 14th instant, was one of the causes why I refused to retire my protest, stating to the Aid of Vizcayno, "if Vizcayno would show me the legitimate order, and give me a guarantee that the duties on said arms would be paid to the general government of Mexico, amounting to rather more than \$4,000, that I then might consider the propriety of retiring my protest, but it would then only be by guaranteeing that said arms would be taken to the United States, and not landed on the Mexican coast."

3d. "Concerning the object of the steamer Forward when she left San Francisco, and whether I have any information as to an arrangement or understanding between Vega and the owners or officers of the Forward before she sailed from San Francisco, or afterwards, as to the purposes of the expedition?"

I have no information of any kind, more than the reports that were afterward published in the papers; and when the steamer Forward was detained at Mazatlan by the authorities, it was said here that this steamer was in the interest of Vega, and the same was reported in regard to the American vessels, Francis Palmer and Harrison, who were at that time at or near San Blas.

4th. "The charter-party, signed by Charles J. Janson, whether executed in good faith, or have I any reason to believe that Captain James C. Jones was implicated with Vega?"

Of this, likewise, I know nothing. I learn from private sources that Charles J. Janson contends that he fitted out the steamer for the purpose of "fishing for oysters," and the object was a legitimate fishing expedition, and that it was sent to Mazatlan, with the proper clearance papers, in preference to San Blas, &c.; but the proofs as to this being so, or the contrary, I cannot assert for want of the necessary information. As to the complicity of Captain Jones with Vega or Vizcayno, I know absolutely nothing, and have heard but few comments. As this port is so far away from the base of Vega's operations, the statements received here are garbled and unreliable. Mazatlan having been the object of Vega, and being nearer his base, no doubt you have received from there more full and reliable information in regard to the two last inquiries in this dispatch.

I beg to inclose (marked No. 2) the official account of the raid on this port by the Forward, as published in the official paper of Sonora; being sent by the first officer of this custom-house to the government at Mexico, dated May 29 last.

I have the honor, &c.,

A. WILLARD,
United States Consul.

F.

[Translation.]

Official account, by authority of the federal custom-house at Guaymas, of the raid of the steamer Forward, May 28 and 29, 1870.

[From the Eco de Sonora of November 11, 1870.]

DISTRICT COURT, State of Sonora.

CITIZEN MINISTER: I regret to inform you that on the morning of the 29th instant this town was surprised by insurrectionary forces of the Ex-General Vega, which landed

about four leagues from this port from on board the war-steamer Forward, bearing the flag of San Salvador, under the command of the Ex-Colonel Fortuno Vizcayno, with the object of recovering about four thousand muskets which were in deposit at the barracks of the stationary companies, for the non-payment of duties at this custom-house, by order of the treasury department. As this port was at that time defenseless, these forces obtained full possession of it, and attacked the treasury officers, whence they obtained, by means of the pending credits, about \$70,000, taken violently from the employés and from merchants. Besides this, they sacked the stores of Ortiz Brothers; and on their departure, which they effected the night of the 29th, on learning the approach of the forces which the active general, citizen Garcia Morales, had collected, they carried with them the citizen administrator, who, from the night before, was on board with his employés, being the only person who remained in their power, notwithstanding the good offices of the consul of the United States, who put in requisition every means to save him, and labored actively to prevent still greater scandals in this city.

In order to carry off the arms and goods, they embargoed the national brigantine schooner Colima and pilot-boat San Pablo, but did not tow away the national vessel Sonora, on account of the haste with which they fled from the shots of the advance guard of the government forces, then at the spot known as Punta de Lastre, at the entrance of the bay. The employés who were captured, the accountant in charge of the collector's office, citizen Andres Fenochio, and the subscriber who was in charge of the accounts when the delivery of the money in hand and of the pending credits was demanded of them, refused to comply, alleging that, as they did not recognize in Don Fortuno Vizcayno any legitimate authority, they absolutely declined to surrender the said property, and the more so, since from the very moment when the place was taken by forces opposed to the supreme government they considered themselves as private individuals, and no longer as employés. Both these officers were then forcibly compelled to place their signatures, as the merchants requested, upon the letters of credit and notes, which were presented to them without comparison with the books, which the citizen administrator and the subscriber, by his order, did, after protesting against the validity of all such acts, and stating the above considerations to the persons interested, who in turn protested, and, as it would seem, paid over the amounts of their debits.

About 12 o'clock yesterday I found means to escape, the administrator still remaining a prisoner, who, I am informed, afterward escaped also; but as I do not know where he now is, I take upon myself to inform you of these unfortunate but important events, hoping that the citizen administrator will, by the first mail, give you fuller particulars, since I do not yet know all the details, and am now away from my office, which I left closed, for which reason the present letter is sent without an official seal or the proper number, which I hope will be pardoned.

Country and liberty! Guaymas, May 29, 1870.

Citizen MINISTER OF FINANCE AND PUBLIC CREDIT, Mexico.

VERAZA.

Copy. Guaymas de Zaragbza.
November 4, 1870.

ELIAS C.

G.

Extract from a private letter from Alexander Willard, etc., United States Consul at Guaymas, dated July 10, 1870.

In my dispatch No. 20 I state no American property or citizens were molested, and I still believe so, although among some here, the house of Ortiz Hermanos, they state that Rodger, Meyer & Co., of San Francisco, California, is an American house, and as they lost some goods it is American property. I have always heard this house spoken of as an English house, and although Rodgers, the founder, has been dead some years, and a Mr. Dean (an American) has purchased, as I have been informed recently, an interest, the firm name of the house remains unchanged, and it is looked on by merchants as an English importing house, the same as Cross & Co., of San Francisco. In my letter to our commercial agent at Mazatlan, immediately after Vizcayno's raid at this port, I stated no American property was molested; not with an idea of influencing Mr. Sisson either one way or the other, but because I believe so; and also regarding a ship of war, I wrote, this is too delicate a matter for me to give you advice upon, (in your district.) The Forward was here under San Salvador colors, (I believed so,) and Vizcayno called her his transport. Captains of ships of war have their own ideas of overhauling vessels that are mixed up in the family quarrels of Mexico. The German consul, Mr. Thaumhauser, and yourself can consult as to what had best be done in case there is a vessel of war in your port. I protested against the arms being taken officially, and also the coals, but they did as they pleased; the coals, as I stated, have been paid for

This is the substance of what I wrote to him, the official dispatch the same as the No. 20; and the German merchants, who have been the sufferers by this raid, pronounce my letter out of place, as I did not urge on Sisson positive advice and use stronger language condemnatory of the affair.

No. 278.

Mr. Fish to Mr. Nelson.

No. 136.]

DEPARTMENT OF STATE,

Washington, February 7, 1871.

SIR: I transmit a copy of the reply of the Secretary of War to the letter of this Department which was accompanied by a copy of your dispatch No. 336, of the 10th ultimo, relative to Indian affairs. It will be noticed that General Belknap deems it advisable that the required consent of the Mexican congress to the entrance of United States troops into that republic, near the frontier, for the purpose referred to, should be obtained. You will, consequently, adopt such measures for that purpose as may seem to you proper and likely to be successful. In a matter, however, which must, if not judiciously managed, wound the sensibilities of a people so averse to anything like an invasion of their soil by foreigners, it will be necessary to move with great delicacy and caution, not merely with a view to compass the object desired, but to avoid giving offense by even proposing it. Confidence, however, is reposed in your discretion.

I am, &c.,

HAMILTON FISH.

[Inclosure.]

Mr. Belknap to Mr. Fish.

WAR DEPARTMENT,

Washington City, February 3, 1871.

SIR: I have the honor to acknowledge your reference to this Department on the 28th ultimo of a copy of a recent dispatch from the United States minister to Mexico, informing the Department of State that, in accordance with the request of this Department, the Mexican government has authorized the governor of the State of Chihuahua to co-operate with the United States military commander at Fort Davis in a campaign against the hostile Indians in Texas; but that the United States troops cannot be permitted to pursue the Indians into Mexican territory without the consent of the Mexican congress; also, calling attention to the offer of the Mexican government to assist the United States authorities in restoring to the territory of the United States certain straggling bands of Indians now in Mexico.

In reply, I have the honor to inform you that the military commander at Fort Davis has been led to expect the co-operation of the governor of Chihuahua in his campaign against the Indians, and it is, therefore, only necessary now to ask that, with a view of assisting any future operations that may become desirable for the protection of the citizens of both sides of the Rio Grande, the Mexican congress be requested to grant the requisite authority for the troops of the United States, under such conditions as may be deemed proper, to pursue within the Mexican border such hostile Indians from the United States as may flee into Mexico to escape their merited punishment.

With regard to the removal of the fragmentary bands of Indians, you are informed that the Indian Bureau is now engaged in the necessary arrangements for their removal, an appropriation of \$25,000 having been granted for the purpose.

Very respectfully, your obedient servant,

WM. W. BELKNAP,
Secretary of War.

The Hon. SECRETARY OF STATE.

No. 279.

Mr. Nelson to Mr. Fish.

No. 353.]

LEGATION OF THE UNITED STATES,
Mexico, February 10, 1871. (Received February 27.)

SIR: On the 4th instant a rumor of the capitulation of Paris was circulated in this city, causing intense excitement on the part of the German and French residents. On the following day several contradictory telegrams appeared, some affirming and others denying that news, which was not fully verified until the arrival at Vera Cruz, on the 8th instant, of a steamer from New Orleans. On the 6th instant, however, in consequence of new telegrams received via Galveston, Matamoras, and San Luis Potosi, the Germans became so fully convinced of the fact that they raised the flag of the German Empire over their clubhouse, where they gathered in the evening to celebrate the event with illuminations, music, and boisterous conviviality.

The French population became, thereupon, so exasperated as to openly threaten an attack upon the German club, and scenes of bloodshed were imminent. During the day the French succeeded in obtaining an order from the government for the lowering of the German flag, as being a demonstration unauthorized in a neutral country.

At about half past five o'clock p. m. of that day, I received a communication from Mr. Ernest Burdel, in charge of the archives of the French legation, a translation of which is herewith inclosed, (A,) in which, after referring to the great excitement consequent upon the receipt of the telegraphic news above mentioned, he invoked my good offices with the Mexican government, for the purpose of preventing any public manifestations on the part of the Germans, which, considered as a provocation by the French, might result in deplorable excesses.

I replied to Mr. Burdel immediately, (B,) promising to do everything in my power for the prevention of such tumults, and addressed a note to the department of foreign affairs, (C,) inclosing Mr. Burdel's communication, and inviting the Mexican government to take timely measures for the maintenance of public order and tranquillity.

On the 7th instant I advised Mr. Burdel of the steps which I had taken in compliance with his request, (D,) and received from him another communication, (E,) thanking me for my good offices, but deploring that the steps taken by the government had not been more effective.

On the same day Mr. Manuel Aspiroz, the acting secretary for foreign affairs, addressed me a note, (F,) in which he informed me that immediately upon the receipt of mine of the day before, proper measures were taken to preserve order, in addition to those previously taken by the government of the district.

At an early hour of the evening, an allegorical transparency, allusive to the recovery of the Rhine by the Germans, was placed in front of the clubhouse. Soon after the French residents began to gather in the street to the number of two or three hundred, all armed; the windows of the building were stoned, several shots were fired, and the transparency destroyed. After some time the police appeared, along with a cavalry force, and dispersed the rioters, wounding some and carrying others to prison; the illumination was extinguished, and, by the aid of the police, the Germans were enabled to conclude their festivity in quietness. An inflammatory account of the transaction appeared the following day in the French paper, the *Trait d'Union*, a translation of which is herewith annexed, (G.) Several personal collisions have since

occurred, and the state of feeling between the French and Germans continues to be very much embittered. I trust that the course which I thought proper to pursue as the friend of both nationalities, and in their common interest, will meet the approval of the Department of State.

Your obedient servant,

THOMAS H. NELSON.

Inclosures.

- A.—Mr. Burdel to Mr. Nelson.
- B.—Mr. Nelson to Mr. Burdel.
- C.—Mr. Nelson to Mr. Aspiroz.
- D.—Mr. Nelson to Mr. Burdel.
- E.—Mr. Burdel to Mr. Nelson.
- F.—Mr. Aspiroz to Mr. Nelson.
- G.—Article from *Trait d'Union*. (Translation.)
- H.—Mr. Aspiroz to Mr. Nelson.
- I.—Article from *The Two Republics*.

A.

Mr. Burdel to Mr. Nelson.

[Translation.]

ARCHIVES OF THE FRENCH LEGATION,
Mexico, February 6, 1871.

MR. MINISTER: Telegrams from San Luis which have announced the capitulation of Paris have excited emotion among the Germans and the French residents of this capital, which the slightest incident may cause to break out into excesses which would be very deplorable.

Although I do not doubt that the authorities are disposed to take all the measures which prudence and impartiality suggest for the prevention of a conflict, I nevertheless think it my duty to request from your benevolence that you will invite the administration to prohibit on the part of the Germans any public manifestation which might assume the character of a provocation to the French.

You will undoubtedly agree with me, sir, that it is better to prevent the evil than to allow it to take place, and that it is in a moment which fills us with sorrow and clothes us in mourning that it is most befitting for you to discharge the high protective mission which the Government at Washington has conferred upon you.

Be pleased to accept the assurance of the sentiments of respect, with which I have the honor to be, Mr. Minister, your very humble and very obedient servant,

ERNEST BURDEL.

B.

Mr. Nelson to Mr. Burdel.

MEXICO, February 6, 1871.

MY DEAR SIR: I received your note of this date at 5.30 p. m., and called immediately upon Mr. Beneke, the German consul, (the Baron Von Schlozer being absent from the city,) to ascertain whether it was the purpose of his countrymen to make a public demonstration, by way of rejoicing over the report of the capitulation of Paris. Mr. Beneke informed me that he had been invited to a reunion at the German club, but was not aware of any intention to have a public demonstration at this time, but that he would ascertain and communicate to me the facts without delay. In the event that a public demonstration is contemplated which might result in tumults and excesses, I will do everything in my power, both officially and personally, to prevent it.

Very truly, yours,

THOMAS H. NELSON.

C.

*Mr. Nelson to Mr. Aspiroz.*LEGATION OF THE UNITED STATES,
Mexico, February 6, 1871.

SIR: I herewith inclose a note I have just received from Mr. Burdel, who is in charge of the French archives in this city, in which he expresses the apprehension that a public manifestation of rejoicing by the German residents in this city over the report of the capitulation of Paris, would result in tumults and excesses, and requests me to invite the Mexican government to prohibit any public demonstration which might assume the character of a provocation to the French.

I send the note to you immediately, so that proper and timely measures may be taken to prevent a disturbance, if the information communicated by Mr. Burdel should prove to be correct.

I have the honor to subscribe, &c.,

THOMAS H. NELSON.

D.

*Mr. Nelson to Mr. Burdel.*LEGATION OF THE UNITED STATES,
Mexico, February 7, 1871.

MY DEAR SIR: Having learned that there were indications of a tumult in front of the German club last evening, at 7½ o'clock, I addressed a note to the department of foreign affairs, in which I inclosed your note of yesterday, so that proper and timely measures might be taken to prevent any collision between the French and German residents of this capital. I was advised that the said notes were immediately communicated to the governor of the federal district, and that means were employed to prevent a disturbance.

I remain, very respectfully, &c.,

THOMAS H. NELSON.

E.

Mr. Burdel to Mr. Nelson.

[Translation.]

ARCHIVES OF THE FRENCH LEGATION,
Mexico, February 7, 1871.

MY DEAR SIR: I received yesterday afternoon and to-day the letters which you have been so good as to address me with a promptness which elicits my deepest gratitude. I regret that the authorities charged with the maintenance of order have not proceeded with a decision and a moderation which might certainly have prevented the lamentable scene of last night. However this may be, there is reason to believe that, as a result of what has happened, not less than of the wise prohibition of the President of the republic, such events will not again occur.

I beg you to accept, my dear sir, along with my thanks, the assurances of my very devoted regard.

ERNEST BURDEL.

F.

Mr. Aspiroz to Mr. Nelson.

[Translation.]

DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, February 7, 1871.

SIR: Yesterday at 8 o'clock p. m. I received the note which your excellency addressed me, accompanied by a communication from Mr. Burdel, in charge of the archives of

the French legation in Mexico, in which he expresses the fear that a public manifestation of rejoicing made by the German residents in this city, on account of the news of the capitulation of Paris, might result in tumults and excesses, and requests your excellency to address the Mexican government, inviting it to prohibit any public demonstration which might have the character of a provocation to the French.

In view of the facts, your excellency was pleased immediately to remit the communication of Mr. Burdel, in order that the proper measures might be taken to prevent disorder, in case the information furnished by Mr. Burdel should prove correct.

In reply, I have the honor to state to your excellency that, at the moment of receiving your note, the proper measures were taken to preserve order, in addition to those already taken by the government of the district.

I have much pleasure in improving this occasion to express the very distinguished consideration with which I have the honor to subscribe myself, very respectfully, &c.,

MANUEL ASPIROZ.

G.

[Translation of an article from the *Trait d'Union* of February 7, 1871.]

THE GERMAN FESTIVAL.

With deplorable levity, the German residents of Mexico, even before receiving any confirmation of the news of the surrender of Paris, have, as it would seem, determined to put to some use the flags, transparencies, and trophies which they have had ready for use for more than three months, and which were beginning to mold.

During the morning a tri-colored flag, probably that of their new German empire, was hoisted over their club-house, to the great scandal of the French population, and of the vast majority of the Mexican population, who have regarded this act merely as an imprudent and odious provocation.

It became necessary to procure an order from the President himself, to oblige them to lower this flag, illegally raised over a private edifice, to the great detriment of public order.

In the evening they wished to take their revenge by illuminating their club and placing upon the balcony a transparency upon which was an allegorical painting insulting to France. The French population became violently excited in consequence of this insult in a neutral country, and very grave disorders were to be feared. The police was summoned to the spot, several shots were fired, many persons it is said were wounded by the police, and the famous transparency was torn in pieces.

The Germans of Mexico are playing a villainous game. This mode of celebrating a false piece of news by public manifestations in a neutral country, where so large a number of French reside, does no honor either to their good sense or to their character. They have acted in the same manner at Colima and at Vera Cruz when the news was received of the capitulation of Metz, and we strongly advise them to abandon this custom, for they have neither hundreds of thousands of men nor Krupp cannons here to enable them to act as savages. They are not in a conquered country, and they may fare the worse for their folly.

At the time of the Italian wars, the French abstained from all public demonstrations out of regard for the nationalities which such manifestations would have wounded. If the Germans are so proud of the exploits of their countrymen, who shoot women and old men, and rob France like real bandits, they are free to be so. The Comanches also drink fire-water and dance around their prisoners before massacring them; but let them rejoice in their own homes and their own circle, and no one will be the worse for it. This would be more dignified and less dangerous.

H.

Mr. Aspíroz to Mr. Nelson.

MINISTRY OF FOREIGN RELATIONS,
Mexico, February 7, 1871.

Yesterday, at eight o'clock in the evening, the note was received which your excellency was pleased to address me, together with a communication from Mr. Burdel, in charge of the archives of the French legation at the city of Mexico, in which the fear is expressed that public rejoicings on the part of the Germans residing in this city, on account of the news of the capitulation of Paris, will cause a riot, and your excellency

is requested to address the Mexican government, asking it to forbid any public demonstration which might be calculated to provoke the French.

In view of which your excellency saw fit to send Mr. Burdel's communication immediately, in order that the proper measures might be taken to prevent any disorder, if the information furnished by Mr. Burdel should prove correct.

In reply, I have the honor to inform your excellency that, as soon as your note was received, proper steps were taken to preserve order, in addition to the measures which had already been taken by the government of the district.

I am very happy to assure you of the very distinguished consideration with which I have the honor to subscribe myself, very respectfully, your excellency's obedient servant,

MANUEL AZPIROZ.

His Excellency THOS. H. NELSON,
Envoy Extraordinary of the United States of America, in Mexico.

I.

[From the Two Republics of February 11, 1871.]

THE GERMAN DEMONSTRATION.

Upon receiving intelligence of the surrender of Paris, the German residents of this city made their arrangements for a suitable celebration of the great triumph of their countrymen in Europe. During the day they hoisted their national banner over their club-rooms, at night their building was brilliantly illuminated, and they assembled in large numbers with their guests in the rooms, where the most enthusiastic interchanges passed, with music, song, toasts, and speeches. Among their guests were several gentlemen distinguished as eminent writers. Our colleagues of the Siglo, who were present upon this joyous occasion, speak of it as a happy and enthusiastic reunion, exhibiting an overflow of patriotism and a laudable love of Fatherland. They speak in the highest terms of the spirit of hospitality, kindness, and good feeling which pervaded the assemblage. They make honorable mention of Mr. Ignacio Altamirano, his political flights and happy oratorical figures.

We were honored with an invitation to participate in this just tribute to the brave soldiers of Germany; but imperative circumstances deprived us of that great pleasure. No member of the club felt more gratification than ourself upon the receipt of the joyful intelligence of an event which indicated the long-wished termination of the distressing war which was afflicting Europe, and which carried sorrow to the firesides of numbers in every other country. That the Germans would celebrate the greatest triumph of their country, more, the greatest in the history of the known world, was to be expected. Our French fellow-residents, though bowed down in affliction at the sad reverses of their countrymen, though their honor and military pride were chastened, though smarting under the agonizing pressure of repeated defeats and ultimate conquest of their country, could have expected nothing more nor less than that the Germans, having the right, would celebrate, as the French would have done under a reverse of circumstances, that is, if the occasion had been the surrender of Berlin. We regret that our French fellow-residents, exasperated and chafed at the misfortunes of their country, did not possess the fortitude, resignation, and dignity sufficient to have remained silent and passive.

The Germans could have restrained the yearnings and outpourings of human nature, and, content with the glories of their countrymen which are now filling the minds of all men, have abstained from any demonstration whatever; and doubtless, so far as their own feelings were interested, would have done so; but they were actuated by the most laudable and honorable feelings. It was not their triumph, it was not the result of their deeds of prowess, it was not the achievement of their genius and chivalry, for which they had assembled to celebrate. It was that of their countrymen in Europe, it was a debt of honor and gratitude which they felt bound to acknowledge upon the first suitable occasion. It was with this object they met in festive assemblage, and not to wound the already lacerated feelings of their French fellow-residents; and neither were they justifiable in so constraining the conduct of the Germans. In this the latter may have been mistaken; it may be insisted upon that their demonstration was in bad taste, or the result of bad judgment. Yet the French inhabitants were to be pitied more than blamed for their delirium, for to us it appears nothing less, but they are not blameless for their tumultuous and disorderly proceedings. In these they violated the hospitality which had been so generously extended to them by the Mexicans; they are inexcusable for taking into their own hands the right to resent, remedy, and punish what they considered, in their inflamed imaginations, as an insult.

We understand that the proceedings within the club-rooms were orderly, harmonious, cool, and prudent, while outside the assemblage of the excited French were tumultuous, law-breaking, and indecent; they denounced and execrated, threw stones and fired shots at the windows and the emblematic transparency of the club-room; and continued their proceedings until a number of them were arrested and the others dispersed by the military. Although it is estimated that over two hundred persons marched in a body through the streets to the club-rooms, we are happy to be informed, and to make this statement, not over forty or fifty were engaged in the riotous proceeding referred to; that the larger number had followed from curiosity, and most of them in front of the club-rooms were inactive spectators; from which we are to infer that the respectable French population neither participated in nor encouraged the outrage; and we are happy to think that the proceedings were confined to the ruder or more disorderly class.

We trust that ere long after the halcyon news of peace has been received, these asperities which have grown up during the war will wear off, as it should, between the people of two nations that have shown on the part of each so many of the attributes of patriotism and chivalry.

THE AMERICAN MINISTER.

Some persons animadverting upon the course of Mr. Nelson in the matter of the German and French troubles on last Tuesday, misunderstand his proceedings and attitude upon the occasion. During the day, Mr. Burdel, the French representative, called upon Minister Nelson, and informed him that in consequence of the Germans making preparations for a public demonstration in reference to the events of the war, the French regarding said movements as insulting to their nationality, and intended to wound their personal feelings, were becoming very much excited; and it was his opinion that, if the preparations proceeded, serious disturbances would follow and the public peace would be disrupted. At the same time Mr. Burdel reminded Mr. Nelson that he (Mr. Burdel) had no official position near this government; that the French population had no representative, further than what they might expect from his good offices, and appealed to his benevolence to place this matter before the government in its true character, that the unhappy consequences which were expected might be averted. Whereupon Mr. Nelson immediately addressed Mr. Aspiroz, the mayor official in charge of the state department, informing him of the unpleasant condition of things. At this point the proceedings of Mr. Nelson ceased; he could do nothing less than he had done, standing, as he did, in the attitude of the representative of a Government that was friendly to both nations, and before one where the French had no representative. He lent his good offices for a laudible purpose, and which ended in a happy result. Immediately upon receipt of Mr. Nelson's communication, Mr. Aspiroz laid the matter before the local authorities, and measures were adopted to prevent any serious collisions between the excited parties, which were effectual, with the exception of a few persons being slightly wounded and a few others being carried off to prison.

CASUALTIES OF THE RIOT.

The Revista of the 9th instant furnishes the names of a number of persons who were injured in consequence of the riot of the French in Calle San Francisco, on Monday night: Mrs. Michaud, of the restaurant Nacional; Messrs. Meyer, Haramboure, Loudon, and Reville, all French; besides a young Mexican, whom the editor saw with a dislocated arm.

The Revista further mentions Messrs. Donde, Kampfner, Fuentes, Noreña, and Loudais, all Mexicans, who were victims of the riot.

No. 28C.

Mr. Fish to Mr. Nelson.

No. 141.]

DEPARTMENT OF STATE,

Washington, February 25, 1871.

SIR: A copy of a letter of the 19th instant, and of the protest to which it refers, addressed to this Department by the Hon. Benjamin F. Butler, of the House of Representatives, is herewith inclosed. General

Butler writes on behalf of the Lower California Company, which, as you are aware, has a grant of land bordering on Magdalena Bay. One of the stipulations in the contract of the company with the Mexican government is that they shall settle two hundred families on their tract before the 1st of May next. This will obviously be impracticable unless the vessel in which the members of those families may embark shall be landed at the spot, instead of first proceeding to the remote port of La Paz, which the Mexican consul at San Francisco declares to be the only port of entry in that quarter. You will consequently suggest to that government the expediency of at once establishing a port of entry at Magdalena Bay, in order that the technical obstacle to the landing of colonists and of supplies for them there may be avoided.

This Government has no disposition to connive at any voluntary violation or evasion of the laws of Mexico by citizens of the United States. When, however, the government of that country enters into a contract with those citizens, it is not conceived to be right or generous on its part to withhold any reasonable facility which may be necessary toward carrying the contract into effect. If, as is supposed to be the case in this instance, the facility should be indispensable, that government would justly be accountable for refusing it.

In order, however, that the character of your proceedings may not constitute an inconvenient precedent, they will be limited to personal and unofficial representations.

I am, &c.,

HAMILTON FISH.

[Inclosure.]

General B. F. Butler to Mr. Fish.

WASHINGTON, February 19, 1871.

(Received February 21.)

SIR: I have the honor to ask to have filed on the archives of the State Department the inclosed protest of the agent of the Lower California Company against the action of the Mexican consul in forbidding the clearance from San Francisco of any vessel for Magdalena Bay, which is the headquarters of our colony.

This action of the Mexican authorities is of the gravest import to the Lower California Company. That company is very vigorously pushing its colonization enterprise in order to fulfill, beyond all question, the terms of its grant to colonize two hundred families before the 1st of May next. This action of the Mexican consul tends to prevent this consummation. It can hardly be possible that Mexico can refuse to let us land with provisions upon our territory, and then complain of the company for not fulfilling its contract by not landing. But this matter has still graver import. We have already landed a large number of men, whom, for the present, we must supply with provisions for their immediate necessities, tools, seeds, materials for houses and other comforts of life, to enable them to sustain themselves and to carry out their enterprise. Now, if we cannot send them these supplies the colonists may starve, and great suffering ensue. So that we present herewith to the State Department the case of American citizens going upon land purchased and paid for to the Mexican government, and carrying on an enterprise in conformity with the order, decrees, and contract of the Mexican government, and then an interference with the business necessary to be done by Mexican agents, which will result in great loss to the company and great wrong to American citizens; and for this we ask the prompt interposition of our Government, as well in behalf of the company as of its citizens who have placed dependence upon Mexican faith.

I have the honor to be, very respectfully, yours,

BENJ. F. BUTLER.

HON. HAMILTON FISH,
Secretary of State.

40 F R

CONSULATE OF MEXICO,
San Francisco, January 27, 1871.

Public notice is hereby given that La Paz, being the only port of entry at present open to foreign trade in the territory of Lower California, the landing of merchandise or provisions at any other point of that peninsula renders the vessel and cargo liable for infringing the Mexican revenue laws.

ISAAC RIVAS.

STATE OF CALIFORNIA, *City and County of San Francisco, ss :*

Whereas the foregoing attached notice or advertisement appeared in the Evening Bulletin, a daily newspaper published in the city and county of San Francisco, State of California, in its regular issue of Saturday, January 28, 1871 ;

And whereas the effect of said notice or advertisement has been, and will be, highly detrimental and injurious, and cause great loss and damage to the "Lower California Company," a corporation organized under the laws of the State of New York, of which corporation Drake De Kay, esq., is the secretary, agent, and attorney in fact on this coast ;

And whereas the consul of the Mexican Republic refused to give clearance to the brig Curlew, loaded with colonists and provisions and goods for the use of and belonging to same, dispatched by said Lower California Company in the fulfillment of the condition of the contract made and existing between the Mexican government and I. P. Leese, in Saltillo, in March, 1864, and revalidated on 4th May, 1866, which condition makes it obligatory upon the said Lower California Company to introduce into the peninsula of Lower California two hundred colonizing families before the 4th day of May, A. D. 1871 ;

And whereas, the said refusal of the Mexican consul has caused the withdrawal of a vessel previously advertised to continue the work of fulfilling the contract aforesaid, has seriously alarmed a large number of families already prepared to emigrate to Lower California, has prevented the shipment of a full cargo of lumber from another port to Magdalena, on the wharf and ready for shipment, has greatly frightened ship-owners here who were preparing to engage in the business, and has already absolutely suspended a large number of contracts entered into and being negotiated for the furtherance of the company's interest, and the compliance with the aforesaid condition of said concession : in fact, it has, at one blow, nullified all the effect of the elaborate and expensive machinery organized by the Lower California Company for the rapid peopling and development of the conceded lands of Lower California, which system had, in the face of and notwithstanding the opposition and discouragement offered by the governor of Lower California, who, although referring the questions raised by him to the decision of the supreme government, nevertheless officially stated and repeated that he could not conform himself with the action of the company in Lower California, thereby intimidating the agents of the company and those colonists invited to the company's lands, making every one of them feel that he went to the country at risk of life and property, and, although so hampered, had the effect of placing in the said territory a large number of colonists of the best class, no paupers or persons of bad character being permitted to go there, and of day by day, week by week, increasing the applications of families to go there, until now some one thousand families were prepared to make homes for themselves there, when this notice or advertisement so evidently hostile, absolutely preventing either emigration to, or shipment of supplies down, or produce back, stopped short the whole business, causing incalculable loss in money and great injury and damage to the company, also casting reproach and opprobrium upon the agents, directors, and share-holders thereof ;

And whereas the said Drake De Kay, as such agent, secretary, and attorney of said company, as aforesaid, has requested F. I. Thibault, a notary public in and for said city and county of San Francisco, State of California, to make his protest and this public act thereof, and that the same may serve and be of full force and value as of right shall appertain ;

Now, therefore, the said Drake De Kay protests, and I, the said notary, F. I. Thibault, at the special instance and request of said Drake De Kay, do hereby publicly and solemnly protest against the acts aforesaid, against the said Mexican consul, against his said notice or advertisement and the legality thereof, against the refusal of said consul to give clearance to said vessel, against the Mexican government and any of its agent or agents, and all persons acting by or under said government, and against whomsoever else it shall or may concern, for all costs, charges, losses, damages, injuries and expenses already incurred, or to be hereafter incurred, by said Lower California Company, its agents, directors, share-holders, and all other persons, for, or by reason or on account of, said notice or advertisement, and the publication thereof, the said consul's refusal as aforesaid, and any and all of the matters aforesaid.

Thus done and protested in San Francisco, this 30th day of January, A. D. 1871.

In testimony whereof, as well the said Drake De Kay as I, the said notary, have subscribed these presents, and I, the said notary, have hereunto affixed my official seal this 30th day of January, A. D. 1871.

[SEAL.]

DRAKE DE KAY,
Secretary and Attorney-in-fact of the Lower California Company.

Before me,

F. I. THIBAUT,
Notary Public.

STATE OF CALIFORNIA, *City and County of San Francisco, ss :*

I, the undersigned, notary public, hereby certify the foregoing act of protest to be an accurate and faithful copy of the original on record in my book of official acts.

In testimonium veritatis.

[SEAL.]

F. I. THIBAUT,
Notary Public.

No. 281.

Mr. Nelson to Mr. Fish.

No. 358.]

LEGATION OF THE UNITED STATES,
Mexico, February 27, 1871. (Received March 20.)

SIR: I have received from our consular agent at Tehuantepec a copy of an anonymous proclamation of an extraordinary character, which has been widely circulated in the towns and villages on the isthmus. The denunciatory language therein employed against several citizens of the United States, and the incitements given to violence and assassination, impelled me to call the serious attention of the Mexican government to the subject. Accordingly, on the 24th instant, I addressed a note to the department of foreign affairs, and inclosed a copy of the proclamation, (A and B.)

Your obedient servant,

THOMAS H. NELSON

A.

Mr. Nelson to Mr. Aspiroz.

UNITED STATES LEGATION,
Mexico, February 24, 1871.

SIR: I deem it my duty to call the attention of the Mexican government to the inclosed anonymous proclamation, which I am informed has been profusely circulated in the various towns and villages of the Isthmus of Tehuantepec, immediately after the close of the late expedition of the forces of the State of Oaxaca against the rebels of Juchitan.

The denunciatory language therein employed against several citizens of the United States, and the incitements given to violence and assassination, would seem to deserve the serious attention of the government of Mexico.

I have the honor to remain, with great respect, your obedient servant,

THOMAS H. NELSON.

B.

[Translation.]

People of the Isthmus :

You have already witnessed the great losses which we have suffered on account of four miserable foreigners having defied the legitimate government of the State of Oaxaca; four wretches whom we have seen not long ago clothed in garments so ragged that the lice needed to be rope-dancers, and were occupied in performing gymnastic exercises.

You now see the cook of the Louisiana company, John A. Wolf, demanding of our impoverished nation, with the utmost cynicism and impudence, half a million and odd dollars.

You now see Francis Dubois, the coachman of Don Thomas H. Wolrich, demanding also nearly four hundred thousand dollars.

You now see Don Alexander Gibbs accumulating every year a great fortune by means of our sweat and labor. You see him in this moment, when he has brought anarchy upon us, selling powder to the rebel chieftains, actuated solely by the ignoble interest of making money. You also see the immense heaps of salt which he has in the salt springs called "of Juchitan," but which ought to be called "of Gibbs." You well know that for a miserable stipend in money or in intoxicating liquor he robs us of our labor, making us pile up the salt from which he reaps such exorbitant profit.

What benefit do we derive from the fact that these springs bear the name of Juchitan, when no advantage from them falls to our people, but only to the pocket of Don Alexander, who has bought up our principal chiefs with a box of wine or a few yards of his contraband cloth? If the government orders, in accordance with the laws, that the value of these salt springs be estimated, you will see the people of Juchitan petitioning that the matter remain in its present state—that is to say, under the domination of the law of the strong hand, and of whoever may collect the greatest number of armed imbeciles to use as beasts of burden. And who form this people? Pineda and Don Alexander. And will these jesuitical foreigners aid us to rebuild our houses that have been burned?

How can Gibbs maintain his innocence if the testimony of his fellow god fathers Che Pedro Pineda and his accomplice H. be taken? And which of the Chees is not an accomplice of the innocent Gibbs?

People, open your eyes and behold your executioners, who, under the masks of hypocrites, and actuated by a thirst for money, sink thee in misery! People, learn who are the real "Binos Gadas," and make them disappear by the use of your daggers!

You now see these priests Cecilio Reyes, Vera, and Bonifacio Villalobos, each of whom has at the lowest calculation, at this time, twenty children and seven or eight concubines, bedecked and bejeweled with the money which they extort from us by their machinations and invocations of Saint Vincent! Why should I mention their names, since you well know them? What advancement can our town ever make, as long as it suits the convenience of these monks that we remain in the most complete ignorance and the grossest prejudices? What future can we expect in case of the arrival of some other Don Alexander, as ragged as you well remember this one to have been, to enrich himself at our expense by the sacrifice of our labor and our prosperity?

Accursed a thousand times be all those who have counseled our poor town to embark in a revolution in which we have lost even the image of our patron saint, merely for the vile interest of making us believe that the troops of the government carried it away!

People, all this cries out for a vengeance proportionate to the magnitude of our grievances, which we hope yet to wreak upon the real "Binos Gados."

SEVERAL NATIVES OF THE ISTHMUS.

VERA CRUZ, January 7, 1871.

No. 282.

Mr. Nelson to Mr. Fish.

No. 359.]

UNITED STATES LEGATION,
Mexico, February, 27, 1871. (Received March 20.)

SIR: I inclose a copy of a note that I addressed to the department of foreign affairs on the 25th instant, in regard to the refusal of the governor of Sonora to surrender, on the requisition of the governor of Arizona Territory, certain fugitives who had escaped to Sonora after murdering and robbing three American citizens at Mission Ridge Camp, in Arizona Territory; in which I requested the supreme government to direct the necessary instructions to the governor of Sonora to deliver the said criminals to the persons duly authorized to receive them by the governor of Arizona as soon as they could be arrested.

A copy of said note is inclosed.

Your obedient servant,

THOMAS H. NELSON.

Mr. Nelson to Mr. Aspiroz.

UNITED STATES LEGATION,
Mexico, February 25, 1871.

SIR: I have just received the inclosed communication from the United States consul at Guaymas, in regard to the refusal of the governor of Sonora to surrender, upon the requisition of the governor of Arizona Territory, certain fugitives from justice, who are known to have murdered and robbed three American citizens at a place called Mission Ridge Camp in Arizona Territory in December last. I also inclose the documents referred to in the letter of the said consul, which will place within your knowledge the facts of the case. I trust that the supreme government will not hesitate to direct the necessary instructions to the governor of Sonora to deliver the said criminals to the persons duly authorized to receive them by the governor of Arizona, as soon as they can be arrested.

After you have examined the inclosed documents please return them to me.

I have the honor to remain, with great respect, your obedient servant,
THOMAS H. NELSON.

No. 283.

Mr. Nelson to Mr. Fish.

No. 366.]

LEGATION OF THE UNITED STATES,
Mexico, March 23, 1871.

SIR: Referring to my dispatch No. 359 of the 27th ultimo, I have the honor to inclose a copy and translation (A and B) of a note from the department of foreign affairs, dated the 8th instant, in which the Mexican government declines to order the surrender of the assassins whose extradition was demanded of the governor of Sonora by the governor of Arizona Territory, basing its refusal upon the fact of the said assassins being Mexican citizens, in conformity with the last clause of the sixth article of the extradition treaty of December 11, 1861, the text of which is as follows: "Neither of the contracting parties shall be bound to deliver up its own citizens under the stipulations of this treaty."

I will, however, make an informal and unofficial effort to obtain their surrender, as an act of international comity.

Your obedient servant,

THOMAS H. NELSON.

B.

Mr. Aspiroz to Mr. Nelson.

[Translation.]

DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, March 8, 1871.

SIR: With a note from your excellency, dated the 25th of February ultimo, I received another from the consul of the United States of America at Guaymas, a letter from Mr. George Cooler, agent of the governor of Arizona Territory, and some newspaper slips, all which refer to the assassination and robbery which it appears was committed by certain Mexicans in the territory of the United States of America, and to the requisition for the surrender of the supposed criminals, made by the governor of Arizona upon the governor of Sonora, and the refusal of the latter to give them up, in case of their being found within the limits of that State.

Your excellency makes known your belief that the Mexican government, as soon as it shall become cognizant of the facts stated in these documents and papers, will not hesitate to send to the governor of Sonora the necessary instructions for the surrender of the accused parties. Your excellency probably formed this opinion without knowing the fact that the persons whose surrender is solicited from the Mexican authorities are themselves Mexicans.

Your excellency will please to note, in the same documents and papers, which I now return, according to request, that this circumstance is therein expressed with at least as high a grade of credibility as the statement of the crimes committed and the attending circumstances thereof.

I expect from your excellency's well-known high sense of justice that this single circumstance will suffice to excuse the Mexican government from ordering the surrender of the supposed criminals, as demanded by the governor of Arizona Territory from the governor of the State of Sonora, since its action in the case should be in strict conformity with the stipulations of the treaty of extradition between the United States of Mexico and the United States of America, now in force, and with the practice observed by the Government of the latter toward the Mexican government in similar cases.

I have the honor to repeat that I am your excellency's very obedient servant,
MANUEL ASPIROZ

No. 284.

Mr. Nelson to Mr. Fish.

No. 373.]

LEGATION OF THE UNITED STATES,
Mexico, March 29, 1871. (Received April 15.)

SIR: I herewith enclose a copy and translation (A and B) of a communication from Mr. Fernandez, the chief of the commission of engineers appointed by the Mexican government to co-operate with the United States surveying expedition on the Isthmus of Tehuantepec, which was addressed to the minister of public works.

Your obedient servant,

THOMAS H. NELSON.

B.

Mr. M. Fernandez to minister of public works.

COMMISSION FOR THE EXPLORATION OF THE ISTHMUS OF TEHUANTEPEC:

As I had the honor to state at the time to your ministry, I awaited the return of Mr. Fuertes, the chief engineer of the American commission to Chivela, to begin our surveying operations, in accordance with the instructions given me at my departure from the city of Mexico.

On the arrival of Mr. Fuertes, I learned from him that the river Ostnta is not available as a canal-feeder, and that it was necessary to make a survey of the Coatzacoalco River, as the only stream remaining for that purpose.

After surmounting various obstacles which had prevented Mr. Fuertes from making that journey, on account of the lack of co-operation on the part of the authorities and inhabitants of the village called Santa Maria Chimalupa, the members of the Mexican commission, along with the American engineers, set out from Chivela for that village. Other difficulties delayed our departure from that place until the 19th of February, when we again started, and with great difficulty reached, on horseback, the river Blanco, a tributary of the river Coatzacoalco, and from this point we followed up the left bank on foot, since the nature of the ground does not admit of any other mode of traveling.

In some portions of its upper course the Coatzacoalco runs between high banks, forming rapid and powerful currents; but as we ascended we could see that its bed became gradually wider and the falls of less height, but without any great diminution of the volume of water, as we found no other important tributary above the river Blanco, and it would seem that the river continues thus, with little variation, throughout most of its upper course.

Two measurements of the volume of water, made at 8 and 12 kilometers above the confluence of the river Blanco, exhibited 30 cubic meters per second, a quantity which has been estimated sufficient to feed the canal.

We were then on the left bank of the river, about 34 kilometers to the east of Santa Maria, and the barometer showed that the water level was nearly the same as that of Chivela, when the Indians of Santa Maria Chimalupa refused to go any further, and returned to their village, obliging us to go back from lack of provisions. We had obtained, however, one important result, namely, to have ascertained that the river Coatzacoalcos can supply enough water, and at a sufficient height to feed the canal,

since it is confidently believed that a little further up the river a level higher than the plain of Tarifa will be reached without any considerable diminution of the volume of water.

In order to ascertain the exact figures and the means of conducting the water in the most economical and convenient manner, Mr. Fuertes has started again for the river, with a part of the American commission, to perform the necessary operations. Meanwhile I shall proceed with the commission under my charge to explore the rivers Chicapa and Ostuto, which we have not yet surveyed, and we shall then return to the Contzacoalcos.

I have also the honor to inform you that the exploration of the southern lagoons has been commenced by the officers of the American war-steamer sent for that purpose.

Independence and liberty. Tehuantepec, March 13, 1871.

M. FERNANDEZ.

No. 285.

Mr. Fish to Mr. Nelson.

No. 150.]

DEPARTMENT OF STATE,

Washington, March 29, 1871.

SIR: I transmit a copy of a letter, and of the accompanying papers, addressed to this Department by Albert Champion, from Brownsville, Texas, complaining of a robbery of nine horses belonging to him, by armed persons from the Mexican side of the Rio Grande. Mr. Champion intimates that some of the stolen horses had been seen on the estate of the Mexican General Cortina, now in command at Matamoras, and some of the testimony tends to show that the robbers were soldiers under him. The frequency of acts of this kind and the virtual impunity of the offenders demand some more efficient check than any which the treaties between the United States and Mexico seem to afford. You will consequently make an earnest representation upon the subject to the government of that republic. You will state that, as it is obviously for the interest of both countries that the government of each should do whatever may be in its power toward restraining and discouraging such lawless proceedings, it is hoped that the Mexican government may take efficient steps for that purpose. If, however, that government should unfortunately be powerless in the matter, or should be backward in exercising such authority as it may have, it may be difficult to prevent retaliation by raids of armed parties from Texas into Mexico, which could not fail to peril the peaceful relations on the border.

I am, &c.,

HAMILTON FISH.

No. 286.

Mr. Nelson to Mr. Fish.

No. 377.]

LEGATION OF THE UNITED STATES,

Mexico, April 12, 1871. (Received May 22.)

SIR: In fulfillment of the promise contained in my dispatch No. 365, of March 23, I now proceed to furnish some data concerning the railroad now in process of construction between this city and the port of Vera Cruz. I went carefully over the completed as well as much of the unfinished work on this line, accompanied by several officers of the railway company, who supplied me with every facility for thorough observation.

The total length of this railway, when completed, will be two hundred

and sixty-one miles. A branch, thirty miles long, now connects the main line with the city of Puebla; it leaves the main line at the station of Apizaco, eighty-six and a half miles from the city of Mexico. In 1864 a contract was entered into for the construction of this line, a small portion of it being then in operation for traffic, though in a very imperfect condition. The contract by an English company (Smith, Knight & Co.) included the purchase of the open sections, and the putting them into a thoroughly satisfactory condition. In October, 1864, the engineers of the company, Colonel Talcott and Mr. Samuel, were both in Mexico, and the contractors' agent commenced work, and carried it on vigorously, until the month of May, 1866, when the works were suspended in consequence of the non-payment of the subvention by the so-called government of the empire.

In November, 1866, Colonel Talcott resigned, and Mr. Alister Fraser was appointed to act as resident engineer in Mexico. A new arrangement was entered into, by which the works were to be carried out by Mr. George B. Crawley as contractor, in place of Smith, Knight & Co. After a series of interruptions and difficulties, during the siege of Mexico, a new commencement was made, and the company's resident engineer, Mr. Fraser, became engineer for the contractor. Mr. Samuel was made consulting engineer to the board in London, and Mr. William Cross Buchanan was appointed the company's chief engineer, in direct charge of all the works. Unfortunately, Mr. Fraser was shortly taken ill, and was obliged to go home. As soon as Mr. Crawley, the contractor, became aware of this, he appointed Mr. Thomas Braniff as his agent in Mexico, and the works have been steadily pushed on for the last two years in a very satisfactory manner. Mr. Braniff is a citizen of the United States, a man of great energy and administrative ability, and has achieved an honorable reputation in connection with the construction of railways in the republic of Chili. The branch to Puebla was finished and opened to the public on the 16th day of September, 1869, and the works in the Tierra Caliente were started afresh on a new survey in November, 1869, and on the 1st of January of the present year some seven and a half miles of the most difficult work on the line were completed and opened to the public.

Several large works have been successfully erected on the lower section just opened; and the line has been completed from Vera Cruz inland for a distance of fifty-five miles.

Mr. Braniff has the work well in hand, and expects to have the line finished by July as far as a place called Fortin, about seventy miles from Vera Cruz. Several bridges have been erected of iron and stone, three of them over 100 feet in height, and in spans of from 140 to 66 feet. At the Fortin mentioned above a very large barranca or gully occurs. Various designs were submitted for a bridge over this, and the last one, designed by Mr. William Cross Buchanan, was a suspension-bridge of 900 feet span, to be principally of steel. These designs were, however, all abandoned, and a new line was surveyed which will pass down on one side of the barranca, cross the Metlac River on a comparatively small bridge, and, rising on the opposite side, join the original line at a convenient point. This line will cost much less, and be a solid road throughout, with gradients of 1 in 40, or $2\frac{1}{2}$ per cent., and 1 in 33, or 3 per cent., and no curve less than 350 feet radius. A very great saving to the company will be effected by this new line, and at least twelve months will be gained in time.

The total distance at present open to the public (including the branch) is one hundred and sixty-three miles, leaving one hundred and twenty

eight miles to complete. A very large portion of these one hundred and twenty-eight miles is partially completed already. In one portion, a distance of over seventy miles, 90 per cent. is finished of the earth-works; and over the portion called the *Cumbres of Maltrata*, where there are curves of 350 feet radius, and a continuous grade for twenty-two miles of 4 per cent., or one in twenty-five, over 60 per cent. of the earth-works are finished.

Two years' steady work would complete the whole line, and when opened to the public will, in my opinion, be one of the best paying lines in the world. There could be no competition, and every pound of traffic that now is carried over the roads on mules or in wagons would go by rail. To the traveling public diligence journeys would become a dream of the past, and Mexico would advance, as all nations do where railways exist.

The management of this railway is in the hands of a board of directors in London, and in Mexico there is a local board composed of five directors. The opened sections are managed by a traffic manager appointed by the company.

When completed, the Mexican Railway will be, in an engineering point of view, one of the exceptional railways of the world, and in a commercial view I believe it will be a most perfect success. From the present returns of traffic it is impossible to calculate what the future returns may be. Railways in most countries have created a traffic for themselves, and Mexico will not be behind in this respect. Wars and *pronunciamientos* will gradually cease, and peace and prosperity will follow in the track of the locomotive.

The obliging superintendent of traffic, Mr. W. H. Mills, has furnished me the following:

Memorandum of the receipts and expenditures on the two opened sections of the line:

MEXICO AND PUEBLA SECTION.

Length, 115½ miles.

Total receipts for the six months ending December 31, 1870.....	\$332,233 95½
Total working expenses for the six months ending December 31, 1870 ...	166,989 22½
Balance.....	165,244 72½
Total receipts for the two months, January and February, 1871.....	\$107,473 29½
Total working expenses.....	53,089 48½
Balance.....	54,383 81½

VERA CRUZ SECTION.

Length, 47½ miles.

Total receipts for the six months ending December 31, 1871.....	\$96,937 25½
Total working expenses.....	92,147 28½
Balance.....	4,789 96½
Total receipts for the two months, January and February, 1871.....	\$46,902 26½
Total working expenses.....	35,277 86½
Balance.....	11,624 39½

The amount of money that is annually paid to this company by the federal government of Mexico amounts to about \$1,000,000, viz, \$500,000 as subvention, and 15 per cent. of the importation duties on all the custom-houses.

Upon my return to the capital I addressed a brief note to the department for foreign affairs, announcing my arrival, and returning thanks for official courtesies, (A,) to which Mr. Aspiroz replied on the 28th ultimo, (B.)

Your obedient servant,

THOMAS H. NELSON.

A.

Mr. Nelson to Mr. Aspiroz.

LEGATION OF THE UNITED STATES,
Mexico, March 27, 1871.

SIR: I have the honor to advise you of my return to the capital, and to express to the department over which you preside, and also through you to the governors of the States of Puebla and Vera Cruz, and the military commandant of that division, my grateful acknowledgments for the official courtesies and honors that were extended to me during my journey and residence in those States.

I beg leave to renew the assurances of my high consideration, and to subscribe myself your obedient servant,

THOMAS H. NELSON.

B.

Mr. Aspiroz to Mr. Nelson.

[Translation.]

DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, March 28, 1871.

SIR: I have had the honor to receive your excellency's polite note of yesterday, in which you inform me of your return to this capital from Vera Cruz.

The supreme government is pleased to learn that your excellency made your journey without accident, as well because it takes an interest in your excellency's personal prosperity as because your presence near the government of Mexico is a valued guarantee of the friendship and cordial relations which ought to bind the Mexican republic to that of the United States of America.

With this occasion I have the honor to reiterate the high and distinguished consideration with which I am your excellency's very obedient servant,

MANUEL ASPIROZ.

No. 287.

Mr. Nelson to Mr. Fish.

No. 385.] LEGATION OF THE UNITED STATES,
Mexico, April 29, 1871. (Received May 12.)

SIR: Pursuant to the letter and the spirit of the instructions contained in your dispatch No. 136, and consequently bearing in mind the delicacy of the request, in the present critical aspect of Mexican politics, I addressed, on the 12th instant, an unofficial note to Mr. Aspiroz, (A,) asking the opinion of the Mexican government as to the feasibility of its submitting to the national congress at this time the question of authorizing the passage of our troops into Mexican territory in pursuit of hostile Indians.

Upon the 20th instant Mr. Aspiroz replied that the executive had taken the subject into consideration, and had arrived at the conclusion that the present time would not be a favorable occasion for submitting

such a proposition with any reasonable chance of success. A copy and translation of this note is herewith annexed, (B and C.)

On the same date Mr. Aspiroz addressed me another note containing the tragical particulars of the murder, on the 4th ultimo, of Mr. Charles Keerl and party by savage Indians in the State of Chihuahua, (D and E,) and inclosing a report upon the same subject from the governor of that State to the minister of war, (F and G.) Mr. Aspiroz deploras, and apparently with good reason, that a combined movement of American and Mexican troops had not taken place in time to prevent this invasion.

On the 25th instant I replied to Mr. Aspiroz, (H,) acknowledging receipt of his dispatches, and promising to transmit them with their inclosures to my Government.

Your obedient servant,

THOMAS H. NELSON.

A.

Mr. Nelson to Mr. Aspiroz.

[Unofficial.]

LEGATION OF THE UNITED STATES,
Mexico, April 12, 1871.

MY DEAR SIR: Referring to my note of January 4, and to the reply of the Mexican department of foreign affairs, dated January 7, 1871, in which your department informs me that "if, on the reassembling of Congress on the 1st of April, it should still be deemed desirable by the Government of the United States that permission should be granted by the Mexican congress for the troops of the United States to cross the Mexican frontier in pursuit of hostile Indians, the President will submit the matter to Congress," I have to state that my Government would still desire such permission if it can be obtained without exciting sensibilities which it has no disposition to wound. I would therefore respectfully ask the opinion of the Mexican government as to the feasibility of referring the matter to the Mexican congress during the present session, with the hope of a speedy and favorable decision by that body.

Very truly and faithfully yours,

THOMAS H. NELSON.

C.

Mr. Aspiroz to Mr. Nelson.

[Translation.]

DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, April 20, 1871.

SIR: In reply to your excellency's note dated the 12th instant, in allusion to that of this department of the 7th of January last, concerning the permission solicited by the Government of the United States of America for the passage of its troops into Mexican territory in pursuit of the savage Indians, I have the honor to state to your excellency that this government has lately taken into consideration the question whether it would be expedient to submit this subject to Congress, in accordance with the desire of the Government of the United States, as manifested by your excellency in your said note, and has arrived at the conclusion that the present would not be the most fitting occasion to solicit such permission from Congress with any well-founded hope of obtaining a prompt and favorable decision.

The Mexican government duly appreciates the delicacy with which that of the United States has again broached this subject, giving the assurance, through the worthy medium of your excellency, that it would wish to obtain the said permission, if it could be done without exciting susceptibilities which it has no desire to wound; and it (the Mexican government) expected no less, knowing as it does the sincere friendship that happily binds together the two governments.

The Mexican government has the satisfaction of having done what it could within the sphere of its facilities, for the reciprocal defense and security of the United States of Mexico and the United States of America, upon that part of the divisory line that

is most exposed to the aggressions of the savage Indians, by acceding to the desire of the Government of the United States of America, transmitted by your excellency in your note of the 4th of January last, for the combination of military operations between the forces of the State of Chihuahua and those of the sub-district of the presidio, in the State of Texas; although, for some unknown reason, the commander of Fort Davis had not yet been able to come to an understanding with the governor of Chihuahua up to the 18th of March last, as your excellency will please to observe in my note on that subject and its inclosures, which I have the honor to send you separately.

This government judges that when once an agreement shall have been effected for the combination of the operations of both forces, the pursuit of the Indians can be successfully undertaken, and the neighboring settlements of the two countries will be freed from the hostilities of the savages.

I am, very respectfully, your excellency's obedient servant,

MANUEL ASPIROZ.

E.

Mr. Aspiroz to Mr. Nelson.

[Translation.]

DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, April 20, 1871.

SIR: I transmit to your excellency, with sentiments of profound regret, the inclosed copies of a communication from the war department, in which is inserted another from the governor of Chihuahua, from which it appears that a party of savage Indians attacked and murdered Mr. Charles Keerl, his wife and seven traveling companions, only one of whom was saved from death, upon the Casas Grandes road, in the canton of Galeana, State of Chihuahua; and of an inventory of the effects belonging to the murdered party, that were recovered by means of the local authorities.

Your excellency may note that it was, perhaps, a lack of combination between the forces of the State of Chihuahua and those of Fort Davis that caused the invasion of the said party of Indians and the murder of Mr. Keerl and his companions. The governor of Chihuahua says that at the date of his communication—the 18th of March last—more than a month had elapsed since he had transmitted to the commander of Fort Davis the order from the Mexican government concerning the proposed combination of the movements of both forces, and that a formal campaign was about to be commenced against the Indians, who had invaded several portions of the State.

As to the effects mentioned in the said inventory, they will remain in deposit with the authorities who recovered them, and orders have already been sent directing that the said authorities hold them at the disposal of the person or persons who may lay claim to them, on the exhibition of the proper proofs.

The government of Chihuahua has also been urged, in case it has succeeded in coming to an understanding with the commander of Fort Davis, to proceed, in conformity with the order from the war department dated the 10th of January last, but in the contrary event, to undertake by itself the military operations necessary for the security and defense of the frontier, as far as it may be able.

I am, very respectfully, &c., &c., &c.,

MANUEL ASPIROZ.

G.

[Translation.]

MINISTRY OF WAR STAFF DEPARTMENT: THIRD TABLE.

In a communication dated the 18th ultimo, the citizen governor of the State of Chihuahua states to this ministry as follows:

"In a note of the 8th instant the citizen political chief of the canton Galeana makes to the secretary of the government this following statement:

"On the 4th instant, at about 4 p. m., the citizen Romaldo Piña reported to me that, being in the house of Don Tiburcio Pouce, distant about a league and a quarter toward the north from this place, there arrived an American wounded in three places by arrows, mounted upon a grayish horse which also had two wounds, and informed them that on the Casas Grandes road, about thirty-five Indians had attacked the foreigner Charles Keerl, and that it might well happen that before aid could arrive the Indians would have massacred the whole party. I immediately collected a party of thirty-three mounted men and sent them in several guerrilla bands to see if they could

aid the persons attacked; but this was impossible, since they had all been killed at the hour of the attack, between 9 and 10 a. m. This event took place at the Chocolate Pass, seven leagues from this settlement. The said party remained there until the next day, collecting the corpses, and picking up the objects mentioned in the inclosed inventory. The caravan belonging to the said foreigner was composed of seven Americans besides his wife, of whom only two escaped. One of these got away on horseback with an arrow-wound in the belly, and at about a league and a half dismounted and remained there two hours; the other succeeded in hiding himself until the Indians went away, when he rejoined his companion, and taking his horse came on to give notice of the facts, leaving his companion where he was. The commander of the party when he found the wounded man had him brought to me by two men, and I took measures for his cure, but the remedies were unavailing. He died the next day, so that of all the party only one survived, and neither of the two who escaped alive from the massacre saved any fire-arms, all having fallen into the hands of the enemy, for which reason it is thought that the Indians led them into an ambush for the purpose of robbing them."

"And I have the honor to transcribe to you the foregoing, along with a copy of the said inventory, for your own information and that of the citizen president of the republic, to whom you will please say that, inasmuch as his supreme order concerning a combination, between the movements of the State forces and those of the United States of America for the pursuit of the Indians, was communicated more than a month since, to the commander of Fort Davis, only a few brief and partial expeditions had been prepared; but as the incursions of those enemies had become very frequent of late in the canton of Galeana, it has become necessary to organize as soon as possible a formal campaign against them to drive them from the places they have invaded. This will be done very soon with the aid of the forces destined for that purpose."

And I transcribe the above to you for your information, inclosing a copy of the document above cited, for the purposes that you may find convenient.

Independence and Liberty!

MEXICO.

H.

Mr. Nelson to Mr. Aspiroz.

LEGATION OF THE UNITED STATES,
Mexico, April 25, 1871.

SIR: I have the honor to acknowledge the receipt of your note, dated the 20th instant, inclosing copies of communications from the war department of Mexico and from the governor of the State of Chihuahua, in regard to the murder of Mr. Charles Keerl, his wife, and seven other persons in the canton of Galeana, State of Chihuahua, by savage Indians, and also inclosing an inventory of the effects belonging to the murdered party that were recovered by means of the local authorities.

The want of co-operation between the forces of Chihuahua and those at Fort Davis, that resulted in the invasion by these Indians and the murder of Mr. Keerl and his party, is a subject of profound regret, and it is to be hoped that the commanders of the respective forces will come to a better understanding, so that by their joint efforts the savages may be driven from the frontier, and thus give protection to life and property. To that end I will transmit copies of these several communications to the Department of State at Washington.

In this connection I have also the honor to acknowledge the receipt of your note of the 20th instant, in reply to mine of the 12th, concerning the permission solicited by my Government for the passage of troops into Mexican territory in pursuit of the savage Indians, a copy of which I will also transmit to the Department of State.

I remain, with great respect, &c., &c., &c.,

THOMAS H. NELSON.

No. 288.

Mr. Nelson to Mr. Fish.

No. 383.]

LEGATION OF THE UNITED STATES,
Mexico, April 29, 1871. (Received May 12.)

SIR: The Protestant movement in Mexico has for the past year been making considerable progress, chiefly owing to the efforts of the Amer-

ican clergyman, Rev. H. Chauncey Riley, a letter from whom upon this subject was forwarded by me, forming an inclosure to my No. 38, of August 9, 1869. There are now about fifty congregations or assemblies of Mexican Protestants in this city and vicinity, and an equal or greater number scattered throughout the country. Most of these assemblies still meet in private houses, though in some small places of the interior they form a numerical majority and have therefore acquired possession of the parish churches. In this city, through the efforts and personal liberality of Mr. Riley, the Protestants have acquired two fine churches of those which were secularized and sold by the government some years since; one of these is the former convent of San Francisco, the most magnificent as well as the first one erected in Mexico. It is now being repaired for its new use. The other is the commodious church of San José de Gracia, which, having been thoroughly repaired, was dedicated to the Protestant service on Sunday the 23d instant, in the presence of an immense multitude. Two or three Catholic priests of some prominence have, within the past two or three months, joined the Protestant communion, and two them have ventured upon the decisive step of matrimony. One of the recent converts, Father Manuel Auguas, formerly an eloquent preacher of the Dominican order, has become the pastor of the new church. This event has caused a vigorous polemic in the newspapers of this city; the two papers considered especially Catholic have been filled with attacks upon the new religious movement, while most of the other papers have exhibited a commendable spirit of tolerance or even of good will toward the Protestants. I inclose an interesting article upon this subject from the *Two Republics* of to-day, translated from the *Federalista*, and written by M. Ignacio M. Altamirano, who is considered as the chief of the Mexican literary writers of the present day.

Your obedient servant,

THOMAS H. NELSON.

[Inclosure.]

A PROTESTANT CHURCH.

Yesterday a Protestant temple was dedicated in the locality which was formerly the church of San José de Gracia, and which was adorned with that Christian simplicity that characterizes the temples of the reformed religion, in which the second commandment of the decalogue is rigorously observed, i. e., that neither images nor idols are admitted.

The audience was immense, and completely filled the nave of the church throughout the day. We learn that 1,500 seats were placed, but they were not enough, and very many of the believers remained standing.

We were present for the purpose of observing the scene, as we do not profess the Protestant form of religion, and we were able to note:

1st. That the throng was made up of all classes, sexes, and ages—ladies, gentlemen, artisans, and numerous Indians; all were mingled in one sentiment of real fraternity, according to the spirit of the gospel, and all read from their prayer-books and participated in singing their hymns.

2d. That although the audience was so numerous, there was manifest a spirit of devotion such as we have never seen hitherto in any of the Roman churches of this city or country, inasmuch as we are accustomed to regard them rather as places of pleasure, of amusement, and of flirtation, than as houses of prayer.

3d. That the democratic sentiment is better developed by Protestantism than by Roman Catholicism, on account of its form of worship and the suppression of that species of fetishism imposed by the sacerdotal hierarchy among the Romans; since, though the Lutherans, for example, have bishops, they scarcely differ from presbyters, and do not present themselves in public with such a pompous staff of chaplains, familiars, secretaries, masters of ceremonies, cross-bearers mounted on mules, vergers,

acolytes, and beadles, as causes such bishops to be considered almost as a fourth person of the Most Holy Trinity.

Among the Protestants this is not the case; the bishop is scarcely to be distinguished except by the greater amount of labor that he performs.

All day worship was kept up in San José de Gracia, the Presbyterian Aguas preaching, and another, who is the pastor of the new church, and in the afternoon two children were baptized.

Perhaps we were the only one who attended through mere curiosity, as all the others showed, by the handling of their prayer-books, that they were old Protestants.

Assuredly Protestantism is making rapid progress in Mexico, which forces us to congratulate the *Voz de Mexico*, since they constitute its triumph.

I. M. ALTAMIRANO,
Federalista.

No. 289.

Mr. Nelson to Mr. Fish.



No. 398.]

LEGATION OF THE UNITED STATES,
Mexico, May 22, 1871. (Received June 6.)

SIR: On the 11th instant, the Mexican government submitted to congress an "initiative" or draught of a proposed law, regulating the whole subject of foreign citizenship in Mexico, accompanied by a message recommending the measure to the prompt consideration of that body. With these documents was published in the *Diario Oficial* a circular addressed on the same date, by the acting secretary of foreign affairs, to the heads of the ministries, inserting and commenting upon a former circular, dated the 31st of January last, by which it was made known that no matter of business coming before any ministry, in which any foreigner may be directly or indirectly concerned, is to be decided without submitting copies of the documents in the respective cases to the department of foreign affairs, and soliciting therefrom information as to the antecedents of the said foreigner.

The project of law specifies a large number of cases in which the foreign resident is to be considered a Mexican citizen unless he shall, in each case, enter a new protest, before the competent authority, that he desires to preserve his original citizenship; and, what is still more singular, cases are indicated in which Mexican citizenship becomes a sort of arbitrary penalty, which may be imposed by the government upon a foreigner, in lieu of expulsion from the country, after trial, conviction, and punishment for fraud.

This project has naturally created great comment and some indignation among foreigners; but there is not the slightest probability of any such law being now passed by Congress.

I inclose copies and translations of the above-mentioned circular, (A and B;) of the message, (C and D;) and of the project of law, (E and F,) the latter in a printed slip from *The Two Republics* of the 20th instant.

Yours, &c.,

THOMAS H. NELSON.

B.

[Translation.]

DEPARTMENT OF FOREIGN AFFAIRS, CHANCERY SECTION.

Under date of the 31st of January last this department wrote to the department under your worthy charge, as follows:

"The department of foreign affairs needs to know all the subjects pending before the other departments in which foreigners are directly or indirectly concerned or interested even though they may not present themselves as such; and, by reason of its own attributes, possesses information and antecedents concerning foreigners which it is indispensable, or at least useful, to take into consideration in treating of such subjects.

"Therefore the citizen president of the republic has ordered that, for the final decision of every subject pending before any department, in which any foreigner may be directly or indirectly concerned or interested, information be previously called for from this department, supplying at the same time all the data necessary for the understanding of the said subject.

"All the executive departments may thus obtain the antecedents which they ought to consult for their greater precaution and judgment in the decision of the subjects coming within their own attributes which may be presented and which have any relation with the rights of foreigners or in any way affect them.

"Which I have the honor to communicate to you for the said purpose."

As the spirit of this order was not generally understood, probably on account of some obscurity in its terms, I now state that its object is, that there may be sent to this department the originals or copies of all petitions and documents upon matters which foreigners are in any way interested, before making any decision thereupon, in order that the department of foreign affairs may derive from such documents the data which may be useful, immediately or in the future, for the better decision of affairs coming within its own jurisdiction, in which the same foreigners may also be interested, and in order that the other departments may also render useful the information and data which that of foreign affairs will furnish them in its turn.

I have the honor to communicate this to you for your information and for the reasons mentioned, requesting you to order that the preceding decree be strictly and punctually obeyed in your ministry.

Independence and liberty! Mexico, May 11, 1871.

MANUEL ASPIROZ

Circular to the executive departments.

D.

[Translation.]

MESSAGE TO CONGRESS UPON CITIZENSHIP.

The peace and prosperity of a nation depend, in great measure, upon a prudent legislation that may define and regulate the rights and obligations of foreigners, and respecting the general principles which constitute the common law of civilized nations, and consulting the well-considered interest of this country itself.

Hitherto we have been destitute of a complete and consistent legislation under the above conditions, and from this fact there have certainly been derived many abuses of the quality of foreign citizenship; the inferiority which, in many cases, the position of native practically has, as toward that of foreigner; the inefficacy of the laws intended to promote colonization and foreign commerce for the benefit of the republic; and frequent disagreements with friendly governments respecting the methods which they are wont to adopt, and in the just decision of certain questions brought forward by foreigners.

The complete remedy for these inconveniences ought to be consigned in the international treaties which the republic may celebrate, and especially in the laws to which, by virtue of such treaties, foreigners should become subject from their entrance into Mexican territory.

It would seem that the first object to be thus obtained would be a sobriety in the declarations made in such treaties, limiting them to what is strictly required by the general and constant practice observed as just and safe by civilized nations, in order not to limit the sphere of the legislative power of the republic in the definition of the rights of foreigners; in this way the republic will always remain at liberty to provide for its own interests according to circumstances. Fortunately the existing treaties

with friendly nations do not in any manner limit the right of this republic to establish, in all the extension which its convenience may require, the rules to which those foreigners are to be subject who come to the country under the protection of treaties and the national laws. But the task of forming a complete code of law respecting foreigners is difficult, requiring a length of time to finish, and an experience, perhaps longer than that hitherto acquired in the midst of difficulties and subversions of order, which have prevented the utilization of the results of several partial experiments of short duration.

It is, nevertheless, indispensable to begin the work immediately, by remedying the most noticeable inconveniences, and to this end the government now presents to the congress of the union a draught of a law, which it is hoped will, if passed, produce speedy and desirable results.

In it the means of naturalization are facilitated and extended; it is prescribed as an indispensable condition for the enjoyment of certain benefits hitherto common to natives and foreigners, but which ought to be reserved for Mexican citizens; the conditions upon which the rights of foreign citizenship may be preserved are laid down; these rights are accurately defined; the exchange of or traffic in nationalities is rendered difficult, if not entirely extirpated; and for possible future cases of such abuses, there are established penalties adequate to the necessity that such abuses should not be multiplied through the impunity which they have hitherto enjoyed. Care has been taken, throughout the draught, to conciliate what may now be called the assured principles of international law, and the stipulations of the international treaties now in force in the republic, with our national legislation, and with some new rules, in every respect that has seemed important for the interest of the country. The government does not pretend to submit to congress a perfect law, adequate to all emergencies; but it believes that if congress should adopt the draught proposed, and should make it a law, with the modifications that its wisdom and patriotism may deem just and convenient, the republic would advance much in the arrangement of its legislation upon foreign citizenship. I request you to lay the inclosed draught before congress, making known the urgent recommendation of the government that the subject be immediately considered, in order that the law be passed, if thought proper, before the termination of the present period of ordinary sessions.

Independence and liberty! Mexico, May 11, 1871.

MANUEL ASPIROZ,
Chief Clerk.

The CITIZEN DEPUTIES,
The Secretaries of the Congress of the Union, Present.

F.

[Translation.]

PROJECT OF LAW.

ARTICLE 1. Foreigners are naturalized in the country, and consequently acquire all the rights and obligations of Mexican citizens—

I. By obtaining naturalization papers issued by the federal government.

II. By marrying a Mexican woman without stating a determination to preserve the foreign nationality.

III. By the birth of their children within Mexican territory without making known the determination expressed in the preceding section.

IV. By becoming of age while residing in Mexican territory, without having made known within the precise term of three months from the date of such emancipation the same determination previously referred to.

V. By acquiring real estate within the republic without making known the same determination.

VI. By performing acts belonging only to Mexican citizens; unless the government, in view of the circumstances of the case, should refuse to concede them Mexican citizenship.

VII. By accepting any employment or post of an official character from the federation, or from any state or municipality.

VIII. By exercising any profession, employment, or industry that may be prohibited to foreigners.

IX. By acquiring a Mexican domicile.

ARTICLE 2. Foreigners, in order to acquire real estate situated within Mexican territory, must reside in Mexico, and even if they should preserve their foreign citizenship by making the declaration mentioned in section V of the preceding article, they shall

be considered as Mexicans in all that relates to such real estate, and shall be subject to the provisions of the law of February 1, 1856, of those of article 8 of the law of March 11, 1842, with its interpretation of the 3d of October of the same year, and of those of other laws in force.

Foreigners who may acquire shares or privileges to be improved within Mexican soil shall be subject to the provisions of this article, with the single exception of the obligation to reside within Mexican territory.

ARTICLE 3. Every foreigner who shall celebrate a contract with the federal government, with that of any state or municipality, or with any person authorized by such government or municipality to celebrate it in its name, or who shall receive, even in a private capacity, any commission from any of the above-mentioned authorities, shall be considered as a Mexican citizen, and in no case can allege the rights of a foreigner in respect to such contract or commission.

ARTICLE 4. Transient visitors and residents, who shall not have been naturalized in accordance with the first article of this law, shall be considered as Mexican citizens, unless they prove their rights of foreign citizenship by a certificate from the book of registry of foreigners, provided for by the law of March 16, 1861, and of December 6, 1856.

ARTICLE 5. The rights which foreigners cannot enjoy without having a certificate of registry are the following:

I. Exemption from obligatory personal service in political, civil, municipal, and judicial administration, and also in the army, the navy, and in the militia of national guard of the federation or the states; in which service not included that of police, for the security and defense of settlements menaced by malefactors who have not the character of public enemies in civil or foreign war in default of the public force for security, and only for the time that the urgent necessity for defense may subsist, in the judgment of the chief local authority.

II. Exemption from every impost having for object the compensation for the obligatory personal service from which foreigners are exempt.

III. The other privileges contained in the treaties in force between Mexico and foreign nations.

IV. The right of recourse to the diplomatic channel for presenting claims against the federal government in case of denial of justice or of unjustifiable delay in its administration, after having sedulously exhausted all other legal resource.

ARTICLE 6. To obtain a certificate of registry, foreigners shall be called to prove either that they are natives of and still preserve the nationality of the country to which they claim to belong, by a certificate of some diplomatic or consular agent of that country, or of the Mexican republic, and in no other manner; or that they have been naturalized in the foreign country whose citizenship they claim, in which case they must present, as an indispensable proof, their naturalization papers, accompanied by their written protest that they desire to preserve said nationality.

ARTICLE 7. Every foreigner who shall solicit naturalization papers shall prove that he follows an honest and lucrative occupation, and that he resides within Mexican territory.

ARTICLE 8. National vessels, without any distinction, are considered parts of Mexican territory.

ARTICLE 9. The statement of the desire to preserve a foreign nationality in the case alluded to in sections II, III, IV, and V, of article 1, shall be made by extracting or presenting the certificates of registry, in accordance with article 3 of this law; and moreover, by having it recorded in the civil register or instrument. If in these documents it shall not appear that note has been made of the certificate of registry, and if the determination of the interested party to preserve the rights of foreign citizenship be not stated therein, those rights shall be held to be renounced.

ARTICLE 10. Every Mexican citizen or naturalized foreigner who shall fraudulently allege rights of foreign citizenship, shall be tried for fraud according to the laws.

ARTICLE 11. Every foreigner who shall fraudulently allege rights exclusively belonging to Mexican citizens, or to the citizens of another nation, shall be, according to the choice of the government, in consideration of the circumstances of the case, expelled from the national territory as a pernicious foreigner, or be brought before the competent tribunal to be tried for fraud and its consequences. In case of his being tried, the right of the government to expel him from the country as pernicious shall remain intact, even after the execution of the sentence, or to consider him naturalized, if the case should be that mentioned in section VII of article 1, if it shall think proper so to do.

MEXICO, May 11, 1871.

No. 290.

Mr. Nelson to Mr. Fish.

No. 409.]

LEGATION OF THE UNITED STATES,
Mexico, June 2, 1871. (Received June 23.) *

SIR: I herewith transmit a copy of a communication from William Schuchardt, esq., our commercial agent at Piedras Negras, addressed to B. J. Gautier, esq., our vice-consul at Matamoras, in response to certain inquiries which I directed to the latter, concerning Indian depredations on the northern frontier.

Yours, &c.,

THOMAS H. NELSON.

*Mr. Schuchardt to Mr. Gautier.*UNITED STATES COMMERCIAL AGENCY,
Piedras Negras, Mexico, May 6, 1871.

SIR: I have the honor to acknowledge the receipt of your letter, dated March 23, 1871, asking for information in regard to depredations on this frontier, committed by Indians from Mexico, and in reply I have to state as follows:

A great many of these depredations on the Texas frontier, there is no doubt, are committed by Kickapoo, Lipan, and Mescalero Indians, living off a short distance from the Rio Grande, and, so to speak, under the protection of the Mexican authorities, they sanctioning the sale of stolen animals by these Indians, and allowing the citizens to trade with and supply the murdering and marauding savages with ammunition and other things they need for making new raids into the settlements of a friendly country. Some time in December last a band of Mescaleros crossed the Rio Grande, at some place above here, into Texas; stole down the country for about thirty-five miles, where they at once commenced their depredations, killing a Mr. Adams, together with two vaqueros; stole all the horses in the vicinity; from there went up the country, attacked a Mexican cart train on the main road from Eagle Pass to San Antonio, took everything belonging to the train, and captured a little boy who had hidden himself near the said train. Thence they went to Mr. Spear's rancho, situated on the San Antonio road, crossing the Turkey Creek, where they took, in bright daylight, out of Mr. Spear's pen, all the horses they could find. The Indians wearing hats and other apparel of civilized people, the inhabitants of the rancho for some time took them for cattle-drivers, and when they became aware of their mistake had hardly time enough to escape into the bushes which surround the rancho.

The Kickapoo Indians, who, since the year 1863 or 1864, live near Santa Rosa, Mexico, about one hundred miles from here, also make their raids into Texas, leaving the ranchos of Western Texas for the distance of one hundred and twenty miles from the Rio Grande bare of good horses. Several times the owners have gone to Santa Rosa to claim their property, knowing it to be there and already sold to citizens of that place, and in some instances they succeeded in obtaining their property, but in others, where the horses or mules were found in the possession of influential men of the village, the delivery of them was refused.

The Mexican accomplices of these Kickapoos seeing that stolen horses were followed up to Santa Rosa by the owners, they thought that place no longer safe, and accordingly take the animals traded from the Indians further into the interior towns, where they have a ready market for any quantity of stolen property and any number of stolen stock.

I am informed that in Saltillo, Parras, and Alamo de Parras there is an immense number of valuable American horses obtained through the raids into Texas by the Kickapoos, the Indians knowing very well that, once across the Rio Grande into Mexican territory, they are out of the reach of their pursuers, and so always escape punishment.

In many instances the Indians stepped out of the river on the Mexican side when their pursuers arrived at the bank of the river on the Texas side, being mocked at by the Indians, safe in a territory where they could not be followed. Among the men here, all sympathizing with these Indians and their acts against the people of Texas, there is one who credited to a Lipan some \$20 worth of ammunition and other things, to be paid to him by the Indian with the spoils of the raid; the Indian was then to

make with others into Texas, and, sure enough, after some time, the man was paid by the Indian with a Spencer carbine belonging to the United States. The Indian related in a mocking way to a crowd of Mexicans, listening with great interest, how he had followed for some time a party of United States soldiers going up the country, and how he at last succeeded in cutting off one soldier, who had strayed a short distance from the command, and how this man begged him to spare his life, offering up arms, horse, and all that he had, but how he, however, killed him and took everything from him; the Mexicans listening to the Lipan's story all through as if it had been a very funny trick.

Here can be seen the unfriendly feelings of the Mexicans toward their American neighbors, manifesting joy at the misfortunes caused by raids of a cruel savage enemy from Mexico. In conclusion, I inclose a slip cut out of the San Antonio Herald; the contents only confirm my statements.

Besides the raids of the Indians at peace in Mexico, are those of the Mexicans, who are doing a wholesale cattle-stealing in Texas, and after once reaching the Mexican side with their plunder, offer openly and undisturbed, at very low prices, the stolen cattle, and there is no authority who interferes in this traffic, except when the owners of the stolen property follow the thieves over to Mexico; then the authorities are obliged to interfere, and after half of the stolen cattle is absorbed in costs of herding the same, &c., the cattle are given back to their owners; but there is always shown an indisposition on the part of the authorities to do justice to an honest foreigner against a thieving Mexican. I never heard yet that cattle-thieves were punished, even when detected, beyond a few days in prison, and they got out to commit the same crime again, but with more precaution.

It seems that the authorities consider the non-realization of profit and the loss of the stolen cattle sufficient punishment for these villains, as the crime was merely committed against a *gringo*, as they call the Americans, in the excess of their patriotic feelings.

A Mexican criminal is here considered as entitled to more consideration than an honest Texan, who is nearly driven to desperation through the continual suffering from Mexican outlaws, and they are excusable in some measure when they take justice into their own hands.

There is now a man in prison at this place for stealing cattle, who, only a few months ago, was surprised in the same crime fourteen leagues below this place, in the Presidio de Rio Grande, crossing stolen cattle over the river. He succeeded in escaping to this place and there never was any demand made for him. He had lived in Texas for the last five or six years and came here last year as a fugitive from justice, having killed a man near San Antonio, Texas; besides this murder, he was implicated either as principal or accessory in four or five others. Such men are running at large in all the frontier towns of Mexico, a small river being there safeguard against the laws they so often violate, and which they will continue to do, encouraged by having escaped all punishment heretofore.

Yours, &c.,

WILLIAM SCHUCHARDT,
United States Commercial Agent.

No. 291.

Mr. Fish to Mr. Nelson.

No. 172.]

DEPARTMENT OF STATE,
Washington, June 26, 1871.

SIR: Your dispatch No. 409, of the 2d instant, relative to depredations of Indians from Mexico across the frontier of Texas, has been received. The frequency of those raids, the serious losses which they occasion, and the impunity of their perpetrators, merit grave consideration on the part of this Government. It is presumed that any remonstrances which may be addressed to the Mexican government upon the subject would have little or no effect. You may, however, say unofficially that it may become our duty at least to weigh the expediency of pursuing the hostile Indians into Mexico, without the consent of that government, if it shall not adopt measures toward checking the robberies referred to.

I am, &c.,

HAMILTON FISH

No. 292.

Mr. Nelson to Mr. Fish.

No. 424.]

LEGATION OF THE UNITED STATES,
Mexico, July 20, 1871. (Received August 7.)

SIR: On the 18th of April last I addressed a note to the Mexican department of foreign affairs, (A,) complaining of the exaction of \$200 as light-house dues from the Pacific Mail Company's steamer Sacramento, at the port of Mazatlan, whereas I am informed that such dues were abolished in 1860, and that they are not now collected either at Acapulco or Manzanillo, and requesting an investigation of the facts, in order that the said injustice may be remedied.

On the following day Mr. Aspiroz replied, (B and C,) informing me that he had requested the treasury department to make such investigation; and on the 4th instant, Mr. Mariscal communicated to me the results of it, (D and E.) From the documents annexed to his note, of which a translation is inclosed, (F,) it appears that such dues were really abolished in 1860, but re-established by the tariff law of 1868.

In reply, I addressed Mr. Mariscal a note, dated the 10th instant, (G,) promising to forward the documents of the case to Washington, and asking to be informed whether the said law discriminates between ports where there are and where there are not light-houses existing; and also whether there are any light-houses at the ports already named.

I am assured that there is but one light-house upon the Pacific coast of Mexico, and that that one belongs to the said steamship company.

Your obedient servant,

THOMAS H. NELSON.

A.

*Mr. Nelson to Mr. Aspiroz.*LEGATION OF THE UNITED STATES,
Mexico, April 18, 1871.

SIR: The Pacific Mail Company's steamer Sacramento, having left San Francisco on the 4th of March last, touched at Mazatlan on the 10th of the same month, laden with passengers and merchandise, and was forced by the local authorities at that port to pay \$200 as light-house fees. These dues, I have been informed, were abolished in 1860, and are not exacted either at Acapulco or Manzanillo; the port regulations of April 22, 1851, being again in force since January 30, 1860.

I respectfully request the department of foreign affairs to cause a proper investigation to be made, and if the facts and law are correctly stated, to require the said authorities at Mazatlan to make restitution of the said amount to the agent of the said line of steamers, and to prohibit similar illegal surprises in the future.

I have the honor to remain, with great respect, your obedient servant,

THOMAS H. NELSON.

C.

Mr. Aspiroz to Mr. Nelson.

[Translation.]

DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, April 19, 1871.

SIR: I have received the note of yesterday, in which your excellency is pleased to state that the steamer Sacramento, belonging to the Pacific Mail Company, has been obliged

at Mazatlan to pay \$200 as light-house dues, while your excellency is informed that such dues were abolished in 1860.

In accordance with your excellency's request, I now address to the treasury department a copy of it, calling for the necessary data upon the two points embraced in the said note, in order to act with entire prudence in taking the necessary measures.

I am, very respectfully, your excellency's obedient servant,

MANUEL ASPIROZ

E.

Mr. Mariscal to Mr. Nelson.

[Translation.]

DEPARTMENT OF FOREIGN AFFAIRS.

Mexico, July 4, 1871.

SIR: In accordance with the promise made to your excellency under date of the 19th of April last, a report was requested from the treasury department as to the amount demanded from the steamer Sacramento, at Mazatlan, for the payment of \$200 as light-house dues, whereas, according to information given your excellency, such dues were abolished in 1860.

To-day the reply of the treasury department has been received, and I have the honor to transmit a copy thereof to your excellency, and I hope there will soon be received in this ministry the reports of the custom-houses at Acapulco and Manzanillo, in order to communicate to your excellency the decision of the government upon this point.

With the highest consideration, I repeat that I am your excellency's very obedient servant,

IGNACIO MARISCAL

F.

Mr. Romero to Minister of Foreign Affairs.

[Translation.]

TREASURY DEPARTMENT, FIRST SECTION.

SIR: In order to meet the wishes of the department under your charge, as made known in the communication addressed me on the 19th of April last respecting the amount which the custom-house at Mazatlan may have had for collecting light-house dues from the steamer Sacramento, belonging to the Pacific Mail Company, which is the subject of the note from the minister of the United States sent me as an inclosure, it was necessary to call for a report from the first section of this department, which has been given in the following terms:

"The department of foreign affairs sends with the present communication a note from the minister of the United States of America in Mexico, stating that the steamer Sacramento, of the Pacific Mail Company, was obliged, at Mazatlan, to pay \$200 light-house dues, and alleges that such dues were abolished in 1860, since which date the port regulations of April 22, 1851, have been in force, for which reason the said dues have not been collected either in Acapulco or in Manzanillo.

"The undersigned clerk would state that, in fact, the second article of the decree of January 30, 1860, excepted from the payment of light-house dues all vessels arriving at Mexican ports; but the tariff law of May 30, 1863, re-established the said light-house dues. The circular from the war department dated August 12, 1863, transmitted by the treasury department on the 25th of the same month, orders the observance without any change, of the provisions of the decree of January 30, 1860, in respect to the collection and disbursement of pilotage dues, without saying anything about light-house dues. The superior order of April 16, 1869, provides that the collection of light-house dues be made in conformity with the decree of September 26, 1856, in respect to coasting vessels, and puts in force the thirtieth article of the general customs regulations.

"The circular of this department dated May 12, 1869, makes the proper explanation concerning the real meaning of the circular from the war department, by which it appears that the light-house dues are to be paid, as having been re-established by the said tariff law.

"As to the statement made by the American minister that the said dues are not collected in Acapulco nor in Manzanillo, I would say that, inasmuch as by the order from this department dated the 17th of August last, in reply to various consultations made by the custom-houses at La Paz, Guaymas, and Mazatlan, and to the petition of Messrs. Melchers, agents of the North Pacific Steamship Transportation Company, it was ordered that light-house dues be collected once only on each trip of the said steamers, and at the first port entered by them, it is not improbable that these custom-houses have ceased to collect them on account of proof being offered of their having been previously paid elsewhere; and if this should not be the case, it would signify that the employes at the said ports have not obeyed the law."

And the president being satisfied with the preceding report, I transmit it to you for your guidance, adding that the custom-houses at Acapulco and Manzanillo have been interrogated as to whether, in fact, they have ceased to collect the said dues in all cases; and that the law of May 30, 1868, to which reference is made in the preceding report, says, in the first paragraph of article 1, which designates the various component parts of the tariff dues for that fiscal year, as follows:

"Tonnage, light-house, and pilotage dues, \$150,000."

Independence and liberty! Mexico, June 24, 1871.

ROMERO.

G.

Mr. Nelson to Mr. Mariscal.

LEGATION OF THE UNITED STATES,
Mexico, July 10, 1871.

SIR: I have the honor to acknowledge the receipt of your excellency's note of the 4th instant, in respect to the light-house dues paid by the steamer Sacramento at the port of Mazatlan, in which your excellency incloses a copy of a report upon this subject from the treasury department, to the effect that the said dues, though abolished in 1860, were re-established in the tariff law of May 30, 1868. Your excellency adds that the receipt of reports from the custom-houses at Acapulco and Manzanillo is awaited, in order that the government may arrive at a final decision of the case.

Thanking your excellency for the pains taken to obtain the necessary data, I would respectfully beg to be informed whether the tariff law of 1868 makes any discrimination between the ports where light-houses do or do not exist; and if such be the case, to be further informed whether any light-houses exist at the ports of La Paz, Guaymas, Mazatlan, Manzanillo, and Acapulco.

I embrace this opportunity to again assure your excellency of the very high consideration with which I have the honor to remain your excellency's obedient servant,
THOMAS H. NELSON.

No. 293.

Mr. Davis to Mr. Nelson.

No. 178.]

DEPARTMENT OF STATE,
Washington, August 7, 1871.

SIR: I transmit a copy of a letter of the 1st instant, and of the accompanying papers, addressed to this Department by the Secretary of the Interior. They relate to an abortive attempt recently made by officers of that Department toward removing those of the Kickapoo tribe of Indians who dwell in Mexico to the abode of their brethren in this country. It seems that the attempt was defeated by the opposition of Mexican authorities. Mr. Delano requests that the consent of the Mexican government may be obtained to our entrance into the territory of that republic whenever it may be necessary to do so for the purpose indicated. A similar request was some time since made to the War Department, and you were instructed to make application to the Mexican government accordingly. This Department understands that that applica-

tion was not favorably received, and was not acceded to. If you should be of the opinion that another effort to that end might have a better result, based upon the documents now transmitted, you will make it, and report upon the subject.

I am, &c.,

J. C. B. DAVIS.

[Inclosure.]

Mr. Delano to Mr. Fish.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., August 1, 1871.

SIR: Before and during the war, portions of the Kickapoo tribe of Indians of the United States removed into Mexican territory. Understanding it to be desirable for them to be returned and remitted with the tribe to which they belong in the United States, Congress during its last session made an appropriation of \$25,000 to defray the expenses of their return.

To accomplish this object, Mr. Miles was some time since appointed agent by the Indian Office, and directed to visit the Kickapoos in Mexico, and bring them back to that portion of the tribe remaining in the United States. On his arrival in Mexico he found himself embarrassed by the Mexican authorities and Mexican people, who seemed opposed to the return of the Kickapoos to the United States. A copy of Agent Miles's letter, addressed to Superintendent Hoag, dated June 7, 1871, is herewith inclosed, together with a copy of a letter of Commissioner Parker, transmitting the same to this office. This correspondence furnishes full information in regard to this question.

Since the writing of his letter, Agent Miles has returned to Mr. Hoag's superintendency, finding himself unable to accomplish the object of his mission. It is not deemed advisable at present for this Department to abandon the effort to bring the Mexican Kickapoos back to the United States, but it is impossible to accomplish this object without the co-operation of the Mexican authorities.

I have the honor, therefore, to respectfully request that you cause the Mexican government to be fully informed upon the subject embraced in this note, and that you will obtain, if possible, the authority of that government for the United States to enter Mexican territory, whenever it may be necessary to do so, and do such things as may be required in removing the Indians referred to to the United States, so that if it shall be finally decided to be the policy of the Government to return them, there may be no obstacles interposed by the Mexican government or Mexican people in accomplishing that object.

I have the honor to be, your obedient servant,

C. DELANO,
Secretary.

HON. HAMILTON FISH,
Secretary of State.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, D. C., July 20, 1871.

SIR: I have the honor to forward herewith a copy of a report of John D. Miles, United States Indian agent now in Mexico, charged with the removal of the Kickapoo Indians in that country, in accordance with the provision made by Congress for that purpose.

For a particular report upon the subject of the removal of these Indians, I would respectfully refer you to my communication of November 28, 1870, in which reference is made to a letter from the Secretary of State, inclosing a dispatch from Mr. Nelson, our minister to the republic of Mexico, upon the subject, dated October 22, 1870.

These papers having been returned to you with my letter of the above date, I have not a copy of said dispatch; but it was to the effect that the removal of these Indians had been the subject of some negotiation, and that the government of Mexico would look with favor upon the project, and that it would assist in gathering said Indians and transfer them to our agents, whenever they should be prepared to remove and locate them with the Kickapoos in the United States.

It was also understood that the Indians themselves were desirous of rejoining their brethren in this country, and that their removal would end the plundering raids into the frontier portions of Texas, of which there had been frequent and just complaint for many years.

Acting upon this information, Mr. John D. Miles, the Kickapoo Indian agent, was, on the 4th of March, 1871, instructed to proceed with a delegation of Kansas Kickapoos to the frontier of Mexico, and consult with the Kickapoos there, and, when gathered, accompany them to the Indian Territory.

It now appears, from the inclosed report of Agent Miles, that we have been misinformed as to the disposition of the Mexican authorities, and the Indians themselves, touching the removal of the latter, and that the Mexican people among whom they reside are hostile to the effort, and have interposed every obstacle in their power to prevent it, so that unless the work of collecting said Indians is performed by the Mexican authorities, the effort seems to be hazardous.

The Mexican people and local authorities desire the Indians to remain, regarding them as a protection against the incursions of hostile Apaches and Comanches from the north. Under these circumstances, Agent Miles, having entered the Mexican territory, finds himself regarded as an intruder, without credentials, and powerless to accomplish any result.

In view of this state of things, I would suggest the propriety of recalling Agent Miles, and deferring further effort for the removal of these Indians until a definite arrangement is had with the Mexican authorities on the subject. But in case you should deem it advisable that he continue his mission, I suggest that a commission be prepared for the agent, to be signed by yourself and countersigned by the honorable Secretary of State, and in some manner indorsed by the Mexican minister, to be transmitted to the agent, with such instructions as the present circumstances may seem to require.

Very respectfully, your obedient servant,

E. S. PARKER,
Commissioner.

HON. C. DELANO,
Secretary of the Interior.

MEXICO, SANTA ROSA,
Coahuila, 6-7, 1871.

ENOCH HOAG,
Superintendent Indian Affairs, Lawrence, Kansas:

We reached this place about one week ago, in company with Colonel Bliss, of Duncan, and W. Schuecharett, of Piedras Negras, United States consul or commercial agent, together with four or five persons as escort or guides. Passed two or three small camps of Kickapoos, all of whom seemed to be destitute, and glad to see some of their friends from the north. After the first day's drive we took in one of the principal men to guide us to the main camps, but owing to a *break-down* of one of our wheels, most of us had to walk for three days, and our Indian guide outwalked us, and went into camp one day ahead of us. We ran short of provisions, and were forty-eight hours without a morsel to eat, and that, too, under a scorching sun and "heated air," on the open plains, such as we had never before experienced. On arriving at Santa Rosa, we found near one hundred Kickapoos ready to meet their friends and hear from their folks up north. We find that a large portion of those who left Kansas in 1864 are dead, the mortality among this portion of the tribe being much greater than among those who have been raised in a southern climate. They are all but poorly clad, when clad at all, and present rather a wild and sorry appearance when compared with the tribe north. They are the most inconsistent beggars I ever saw, and many of them say they often starve for three days, and then get but little. In the past they have depended almost entirely on the "chase" for subsistence, and although they were induced to come into Mexican quarters, under promise of "bags of silver," and many other advantages, yet they had never received anything from the republic until within the last three weeks.

It appears that there had been appropriated by the general government of Mexico, about three years ago, the sum of ten thousand dollars, for the benefit of these Kickapoos, and was duly turned over to the governor of this State (Coahuila) at Saltillo, where it has been lying until last winter, when there was a commissioner appointed, and \$5,000 of this fund directed to be turned over to him, to be expended for cows, horses, carts, corn, beef, cattle, &c., &c. This, we think, was all done after learning that our government had made appropriation for the removal of the Kickapoos. We find this commissioner here in the discharge of his duty, duly authorized by the State. On the second day after our arrival here, he bought and turned over to the Kickapoos fifty-two head of beef-cattle, and then drove them around by our quarters, to let us see that he was at no "child's play," but meant business. He had turned over to them a lot of corn only a few days before our arrival.

These are the *substantial evidences* that they are bringing to bear upon the Kickapoos to prejudice them in their favor, and the citizens here are very much opposed to their leaving, and assure them in every way possible that *these things shall last*, and that the Mexican government will continue to act in good faith toward them.

The local interest in this matter is this: the Kickapoos are on good terms with them, and as their numbers are sufficient to keep away all marauding bands of hostile Mescalero, Apaches, Comanches, &c., they are a sure protection for them, and the people of Santa Rosa say, if the Kickapoos leave them, they will be exposed to all the horrors of the arrow and scalping-knife. Santa Rosa is kept up almost entirely by its silver mining interests, and the leading miners, although of pure American blood, are bitterly opposed to the removal of the Kickapoos and against our presence here. The Mexicans tell the Indians that we are only setting another trap to get them over into Texas, and then repeat the terrible slaughter that was poured out upon them in 1865 by the rebel Texans, who sought to force them into the confederate service, and then, on account of their refusal, pounced upon them with fearful slaughter. The Mexicans have ever kept them in perfect ignorance of the conclusion of our terrible war, and have told them it still raged. This has been done in order to keep them from returning to their old homes north. The Kickapoos south still hold a bitter grudge against the Texans, and it is going to be quite difficult to get them to understand that it was not the representation of the loyal portion of our Government that punished them in Texas. They regard it as a mere chance that we passed through Texas safe. A large portion of the tribe is out on the hunt just now, and we cannot hold an official council among them until some of them return. Messengers were dispatched at once for them, and some squads have returned. The Indian portion of our delegation have been only some of their camps here, and report them in very destitute circumstances, and the women very generally express a wish to return north, while the men are disposed to question the propriety of the move, and have raised some very important points, which will be brought before me in general council, (if permitted to meet them in council. One is, "Where is Warren Station?" "How large a reservation is to be given us, and "Who are to be our neighbors?" and "Is the land good?" &c., &c. I am not authorized to answer any of these questions in my letters of instruction. Some say that before they will consent to go, they must send a delegation to see where they are to live; some are going to ask for ponies, so that they can take an independent course, and go independent of the military, of which they seem to have a dread. All these points that are being brought up by individuals unofficially. Here we are in a foreign country, regarded as intruders, with no official documents to show authority for crossing the Rio Grande to hold conference with these Indians, and yet, if we see them at all, it is absolutely necessary to go into Mexican territory. I should have had some kind of document from Commissioner Parker or Secretary Delano, and indorsed by the Mexican minister, and then the authorities here would not have thought so strange of our presence here. My only claim while on Mexican soil is that of an American citizen in an unofficial capacity. We find that several unofficial persons have been trying to work up their removal since the appropriation of the \$25,000, partly on a "financial basis, but without success. This goes very much against us, from the fact that the Indians are getting tired of it, and do not know who to trust or believe. They refused to receive one party, and told him if he did come into camp they would kill him. Another tried to get a hearing with them, who was asked if he wished to fight; if he did, they were ready for him. Our party from Duncan all left us yesterday, and we propose to stay here as long as we think there is any hope for doing good. The alcalde has promised us protection, although he regards us as intruders, and he himself personally opposed to the removal of the Kickapoos. Our cash expenses have been quite heavy, and must continue to be while here, and we must have more money to get home, or even if the Kickapoos do not go north. Everything is specie since we reached Texas, and our currency has only brought from 85 to 83 cents on the dollar. We are three hundred miles from telegraphic communication, (San Antonio,) and yet we shall have to make a trip there before starting home. We have "fearful odds" to work against; therefore do not expect too much from us.

I am, as ever, thy sincere friend,

JOHN D. MILES.
United States Indian Agent.

P. S.—Thermometer 105 in shade, which makes us northerners pant.

No. 294.

Mr. Nelson to Mr. Fish.

No. 429.]

LEGATION OF THE UNITED STATES,
Mexico, August 10, 1871. (Received August 26.)

SIR: The Mexican department of foreign affairs, under date of the 28th of July ultimo, issued a circular to the governors of States upon

the subject of foreign citizenship, a copy and translation of which are herewith inclosed, (A and B.)

The object of this circular is stated to be to procure the readier and more punctual observance of the accompanying decree of March 13, 1863, upon the same subject, and to prescribe certain new rules and regulations for the registration of foreign residents. Of these, the most important are those which concern those foreigners who have acquired their citizenship by naturalization, in respect to whom it is provided that for the purpose of registration and the consequent recognition of their actual citizenship by the Mexican government, they must present, not merely the diplomatic or consular certificates required in all cases, but also their original naturalization papers, and only when the loss or destruction of such papers is sufficiently proven will other proofs of equal force be admitted to show that the interested person legally obtained his naturalization, after observing the conditions of residence and the other conditions required by the laws of the country in question.

Moreover, the fact of such registration at the department of foreign affairs is to be considered as affording only a legal presumption of the citizenship therein ascribed to any foreigner; the government reserving to itself the right to ignore such registered citizenship whenever it may, by any means, become satisfied that the entry was unduly made.

Your obedient servant,

THOMAS H. NELSON.

[Translation.]

DEPARTMENT OF FOREIGN AFFAIRS, CHANCERY SECTION.

This ministry has noticed that the governors of States, when they call for certificates of matriculation, in conformity with the third article of the law of March 16, 1861, they frequently do not keep in view the explanation of the eleventh article thereof, contained in the decree of March 13, 1863, which is inclosed with this circular for its readier and more punctual observance.

It is ordered therein that for the registration of any foreigner, it shall be sufficient that there be presented at this ministry a proof of his nationality certified by the proper diplomatic or consular agent, when the said individual possesses by birth the nationality attributed to him in the certificate, but not when he has acquired it by naturalization, and that in the latter case there must be presented to the government an incontrovertible proof that the interested party has complied with the conditions regarding residence and the other conditions prescribed by the naturalization laws of the country in question. It is, therefore, indispensable for the ready fulfillment of the said decree, that the governors and other functionaries through whose agency foreigners may solicit the certificates of registration contemplated by law, shall take care that the proofs of nationality sent in such cases to this ministry possess the necessary conditions, for which purpose the following rules are to be observed:

1. The certificate of nationality issued by a diplomatic or consular agent will be sufficient, whenever it is expressed therein that the person interested is a native of the country represented by said agent.

2. Whenever the passport mentioned in article 11 of the law of March 16, 1861, shall be presented as a proof of nationality, the said document shall be legalized by the proper diplomatic or consular agent, and accompanied by a certificate that the interested person is a native of the country represented by said agent.

3d. The proof to be presented by persons naturalized in a foreign country shall be the naturalization paper, duly legalized; and only when its loss or destruction shall be sufficiently proved, or that such document was not necessary under the laws of the country in question, other proofs of equal force may be admitted to show that the interested person legally obtained the alleged naturalization.

4th. Every proof of foreign nationality which shall not combine the requisites specified in some one of the preceding rules shall be of no value when presented for the purpose of obtaining a certificate of matriculation.

It is proper to note in this circular that a registration constitutes merely a legal presumption that a foreigner possesses the nationality therein assigned to him, and by

virtue of such presumption he shall receive the legal treatment to which he is entitled by international prescription or by special treaties; but whenever it shall be discovered that, by a mistake of whatever kind, he has been registered in this ministry under a nationality which he does not possess by the laws of the country in question, the government of the republic cannot continue to treat him as possessing such nationality.

All which I communicate to you by order of the citizen president of the republic, for your information and observance in the part corresponding to your official functions.

Independence and liberty! Mexico, July 28, 1871.

MARISCAL.

DEPARTMENT OF FOREIGN AFFAIRS AND OF THE INTERIOR.

The president of the republic has been pleased to address me the following decree:

"The citizen Benito Juarez, constitutional president of the United States of Mexico, to all the inhabitants thereof:

"Know ye that, by virtue of the extraordinary faculties with which I am invested, I have been pleased to promulgate the following decree:

"ARTICLE 1. It is hereby declared that in the eleventh article of the law published on the 16th of March, 1861, which provides that for the inscription of an individual in the register of foreigners, and the issue to him of a certificate thereof, it shall suffice that he present to the ministry of foreign affairs a declaration of his nationality, certified by the proper diplomatic or consular agent; it is to be understood to imply 'when the person interested shall have originally possessed the nationality attributed to him by the certificate,' but not when he shall have obtained it by naturalization, in which latter case, in order to be recognized as possessing such nationality, he shall present to the government an indisputable proof of having fulfilled the conditions of residence and the other conditions prescribed by the naturalization laws of the country in question.

"ARTICLE 2. As the government of Mexico has neither the power nor the will to alter the legislation of other countries in regard to the requisites therein prescribed in order to obtain naturalization, all the declarations and recognitions of nationality as obtained by naturalization, without the proof of previous compliance with such requisites, shall remain without effect until such proof shall be presented.

"ARTICLE 3. The declarations of Spanish nationality made in consequence of steps which have been taken in the time and manner prescribed by the decree of August 10, 1842, are hereby confirmed.

"ARTICLE 4. Mexicans are prohibited from executing or alleging an irregular naturalization, under penalty of deportation for five years.

"ARTICLE 5. The Mexicans who, during the present foreign war or any other of the same character, shall renounce their nationality, shall be punished as traitors, and their property confiscated to the extent determined by the civil authority, to be applied to the expenses and damages of the war.

"Therefore I order the above decree to be printed, published, circulated, and duly obeyed.

"Given in Mexico, the 13th of March, 1863.

"BENITO JUAREZ.

"The citizen JUAN ANTONIO DE LA FUENTE,

"Minister of Foreign Affairs and of the Interior."

And I communicate it to you for its observance and other legal effects.

God and liberty! Mexico, March 13, 1863.

FUENTE.

No. 295.

Mr. Nelson to Mr. Fish.

No. 432.]

LEGATION OF THE UNITED STATES,
Mexico, August 24, 1871. (Received September 14.)

SIR: On the 8th instant there appeared in the *Diario Oficial* a long series of documents showing the relations which have existed for several months between the Mexican government and the Lower California Colonization Company, and the measures taken by the former to ascer-

tain whether the company had or had not fulfilled the terms of its contract within the time therein stipulated.

According to the seventh article of the so-called "Leese contract," the company was bound to introduce into the peninsula of Lower California, within a term of years ending on the 4th of May last, two hundred families of colonists. As the result of a commission given to an officer of the custom-house of La Paz, to report upon the number of families of colonists existing in Lower California on the above date, that officer states that there were but twenty-nine families, but that there were in addition between four and five hundred single men, by counting whom the company claims to have fulfilled its engagement.

The government agents deny, 1st. That any number of single men can be legally considered to compose the *families* spoken of in the contract; 2d, that more than a small percentage of the single men referred to have been brought to the peninsula by the colonization company, alleging that they came thither for other purposes, especially for the gathering of the orchilla plant; and 3d, that such persons cannot be considered as *colonists*, they having come for the purposes of a temporary speculation. Acting upon this report the Mexican minister of public works addressed a note, on the 29th of June last, to Mr. Drake De Kay, secretary and general agent of the Lower California Company, (A and B,) declaring the concessions of land made to that company null and void for non-fulfillment of the terms of the contract, and that the government would proceed to open an account against that company for trespasses upon the national domain, and especially for the quantities of salt and of the orchilla plant which it has extracted from such public lands. The minister concludes by stating that he has sent copies of his note to the departments of the interior and of finance, "in order that they may proceed to take the proper steps concerning the introduction of goods at Magdalena Bay, and the continuance at that place of persons who improperly occupy public lands."

Your obedient servant,

THOMAS H. NELSON.

B.

[Translation.]

Mr. Balcarcel to Mr. De Kay.

DEPARTMENT OF PUBLIC WORKS,
Mexico, June 29, 1871.

SIR: On the 19th of April, 1869, Mr. Jacob P. Leese, the representative of your company, was informed of the obligation under which the said company was placed, in respect to its taking possession of the lands it was to colonize in Lower California, according to its contract, of subjecting itself to the operation of the laws of the republic, applying for that purpose to the proper judicial authority, and previously executing a measurement and survey of those lands.

When you communicated to this department, on the 22d of September last, that the company was disposed to proceed by legal measures to obtain all the rights, exemptions, and immunities to which it was entitled according to its contract, and that with this object it had landed the first exploring and colonizing expedition, this government deemed it proper to repeat the above instructions, and informed the governor of Lower California that the colonization was to take place according to contract, not only in the zone comprehended between the parallels of $24^{\circ} 20'$ and 27° , but also in that between 27° and 31° ; leaving untouched in the former the property of Mexicans, whatever might be the titles alleged, even when they might not be yet confirmed; and taking possession, in the latter zone, for the proposed colony, of all the lands, without other limitation than that of reserving the fourth part for the native Mexicans who may solicit them. You were also informed at that time that the company was under obligation to execute

immediately, in the first of these zones, a general measurement of the lands, in order to separate those belonging to Mexicans from those which were to be colonized: and that it was also under obligation to survey and determine, with the greatest accuracy, the parallels of 27° and of 31° , in order to enter thereafter into the possession of all the wild lands between these parallels, except the fourth part reserved for citizens of this republic.

Before this time, the government had to send to Lower California a scientific commission charged with the survey of the said parallels, in order that the company might meet with no difficulties in that respect, and the said commission being further charged to be present at the measurement made by the company.

The said company, instead of proceeding to the said measurement as the first step toward entering upon possession of the lands ceded for colonization, limited itself to the occupation of certain lands, and to the location of a small number of persons upon them. Although these irregularities attracted the attention of the government, it allowed the agents of the company to remain at Magdalena Bay, because they manifested a desire to explore the ground first, in order to proceed to the survey and measurement afterward. Moreover, as the government comprehended that for the establishment and success of the colonies it was indispensable that the company should introduce along with the colonists provisions and other objects necessary for their subsistence, as well as the utensils necessary for the works to be executed in the foundation of a colony, and all the more so in lands of that character, it facilitated, as far as possible, that class of importations, opening at the proper time, by virtue of its constitutional faculties, to the commerce of the high seas, the port of Magdalena Bay, which had been chosen by the company for the beginning of their work of colonization, and therefore the most adequate for the landing of the goods destined for the supply of the colonists.

All these measures of the government had for their object the colonization of the peninsula, and desiring to know if it was being done in accordance with the terms of the contract, the government named a special agent to proceed to Magdalena Bay, along with a judge of Lower California, in order that his acts might all have credit and responsibility, and to form a register of the number of families who should have established themselves in the territory up to the 4th of May last, the date which, according to the seventh article of the contract, the company should have introduced at least two hundred families of colonists. By the report of the special agent to this government and the accompanying register authorized by the judge, it is proven that on the 4th of May last there were in the districts examined that agent twenty-one foreign families, amounting to fifty-nine persons, and forty-five Mexicans inscribed as colonists, among whom were eight families; the sum total being therefore twenty-nine families, composed of one hundred and four persons. The company also presented as colonists introduced by it four hundred and twenty-six individuals, among whom only two were females, which individuals not only do not constitute families, but do not even possess the character of *colonists*, since they have not definitively left their own country to settle in this, but are now in the peninsula merely with the object of exercising a certain industry for a limited time.

From these facts it may be deduced that the company has failed to fulfill the seventh and other articles of the contract, since it has not introduced into the peninsula the two hundred families of colonists mentioned therein as a minimum. But the government knows, moreover, that the company, without having legally taken possession of its lands, has devoted itself to their exploitation in an undue manner, unauthorized by the terms of the contract. This department is also informed that since the month of February, 1870, Mr. J. Jansen, who calls himself an agent of your company, and claims to act under its authority, has exploited upon a great scale, and still exploits the silver mines of Ojo de Liebre against the express stipulations of the eighth article of the contract. The company itself has not only collected and exported the lichen called *orchilla*, in grounds of which it was not yet legally in possession, but has assumed to grant an exclusive privilege for the exercise of this industry, for which it would have no faculties, even in case of having fulfilled its contract, and having become the proprietor of the said lands.

Since the seventh and other articles of the contract have not been fulfilled, the stipulations of the seventeenth article are now to be applied, they being as follows: "If the contractors shall fail to fulfill any of these conditions within the time and manner stipulated the concession shall become null and void, even though they may have delivered in advance the sum of money mentioned, and in such case they shall be indemnified with 500 sitios de ganado mayor, between the twenty-seventh and thirty-first degree of latitude," and by virtue of this clause the citizen President of the republic has been pleased to declare that the concession of lands made for purposes of colonization, in favor of your company, has ceased to be binding, and is null and void.

As stipulated by the last clause, the government is disposed to indemnify the company with 500 sitios de ganado mayor, between the parallels of 27° and 31° , for which purpose it awaits that the company take the proper steps in this department, by means

of a properly authorized representative; it being understood that there will previously be drawn up articles of settlement, in which the government will demand from the company the amount properly due for the articles of public property which it has taken without permission, and for the exploitation it has made of salt and of the orchilla plant in lands which are to be considered as belonging to the nation.

This decision is now communicated to the departments of the interior and of finance, in order that they may proceed to take the proper steps concerning the introduction of goods at Magdalena Bay, and the continuance at that place of persons who improperly occupy public lands.

Independence and liberty!

BALCÁRCEL.

MR. DRAKE DE KAY,

Secretary of Lower California Colonization Company, Magdalena Bay.

No. 296.

Mr. Nelson to Mr. Fish.

No. 438.]

LEGATION OF THE UNITED STATES,
Mexico, August 30, 1871. (Received September 14.)

SIR: This morning I received your dispatch No. 178, concerning the recent abortive attempt of officers connected with the Bureau of Indian Affairs toward removing fragmentary bands of Kickapoo Indians, now in Mexico, to their appropriate reservation within our own territory. I immediately sought an interview with the minister of foreign affairs, and communicated to him substantially the contents of the said dispatch and the inclosures thereof. He had not been informed of the improper interference of the local authorities at Santa Rosa, in thwarting the views of our Indian agent, Mr. Miles, and expressed much surprise at their conduct. He promised to prevent, if possible, in the future, any such intervention on the part of government or State officials. Mr. Mariscal having but recently entered upon the discharge of the duties of minister of foreign affairs, did not appear to be familiar with the correspondence between this legation and the Mexican government on this important subject, but said that he would make it a special study, with a view to another conference with me at an early day. He assured me that the Mexican government would present no obstacle in the way of the fulfillment of the humane and peaceful policy of our Government toward these Indians, who are temporarily residing in Mexico. Mr. Mariscal said that he would confer with the President in regard to the most feasible method of aiding our Government in the matter of removing the said Indians, and expressed the opinion that, the presidential election being over, there would now be no great difficulty in procuring the sanction of Congress to an act authorizing the passage of our troops across the frontier for the purposes indicated in your dispatches.

During the interview, I again called Mr. Mariscal's attention to the constantly increasing depredations of Indians from Mexico across the frontier of Texas, and the atrocities and outrages committed by them with perfect impunity; and said to him, in the language of your dispatch No. 172, that it *might* become the duty of our Government at least to weigh the expediency of pursuing these hostile Indians into Mexico without the consent of that government, if it should not adopt measures toward checking the depredations referred to. Mr. Mariscal replied that the Mexican government had not the power, without the authority of Congress, to permit the entrance of foreign troops upon Mexican soil; but that if it should become an imperious necessity for our troops to

pursue savage and hostile Indians from our territory into Mexico, he assured me, as he said, unofficially, that the Mexican government, in his opinion, would not seriously complain.

I beg leave again to call attention to the proposition of the Mexican government, inclosed in my dispatch No. 216, (*bis*), and also to my dispatch No. 336, of January 10, 1871.

I have the honor to inclose a copy of a communication from our consul at Monterey, dated August 8, 1871, in regard to the council at Santa Rosa, (A,) and also a copy of a communication from our commercial agent at Piedras Negras, on the same subject, (B.) The latter inclosed a very interesting report from Mr. Miles, our agent, the substance of which has doubtless been communicated to the Indian Department.

Your obedient servant,

THOMAS H. NELSON.

A.

Mr. Ulrich to Mr. Nelson.

UNITED STATES CONSULATE,
Monterey, August 8, 1871.

SIR: A short time ago I had the honor to send you some Texas newspapers containing telegrams regarding the visit of Colonel Bliss and others, as commissioners from the United States to the Kickapoo Indians, who are living on this side of the Rio Grande at or near Villa Musquiz, (sometimes called Santa Rosa,) in the adjoining State of Coahuila, for the purpose of prevailing on the Indians to remove to their reservation in the United States. The newspapers referred to state that the Kickapoos had agreed to return to their reservation, but that on the day succeeding to that on which the arrangement was made, an agent from the governor of Coahuila arrived among them, and by the distribution of \$5,000 among the tribe and by other means prevailed on them to remain in Mexico.

I was, at the time, rather inclined to doubt the truth of this statement, but on yesterday I had a conversation with a Seminole negro, "Gopher John," who has been on visit to the Kickapoos, and who was with them when the money was distributed among them by the agent of Governor Cepeda. I have no doubt, now, but that such is the case.

This "Gopher John," although a negro, is a chief among the Seminoles who remain in this country, and came here with the tribe soon after the close of the Florida war. He is a shrewd, sharp customer, and his statements are reliable.

The ostensible reason for this proceeding of the governor of Coahuila is, that he wishes the Kickapoos to remain on the frontier of his State as a protection to the inhabitants against the Comanches and other wild Indians from Texas; but I do not believe that for this reason alone would he be guilty of so gross a breach of good neighborhood. No doubt he has been prevailed on by the inhabitants of Musquiz, and the region around, to retain these Indians there, from the fact that large gains are reaped from the trade growing out of their raids into Texas, by which means the ranches and haciendas are supplied with fine horses and mules at very low rates. So, under such circumstances, the business is a bad one, and but one result can follow: if the United States do not soon insist on the breaking up of this nest of horse-thieves and murderers the Texans will themselves attend to the matter; and when this takes place, great is the feeling against the Mexicans of the frontier that they will suffer equally with the Kickapoos.

There is no doubt as to the stealing done by these Indians. Their raids are constant, and their starting on them and their returns are always well known in their neighborhood.

I am told by reliable persons that on all the ranches on the frontier are to be found valuable horses, with brands on them of all the stock-raisers from San Antonio to the Rio Grande; and I know that here are daily seen on the streets valuable animals and in greater numbers than heretofore, that no doubt have found their way here through the agency of the Kickapoos.

I give you the above facts, as I think it very essential you should know exactly how this matter stands, and being assured that, before a great time, serious complications will grow out of the matter.

I also refer you to my correspondence on the same subject with Mr. Plumb.

I sent you, by last mail, newspapers from Brownsville with articles marked relating

to cattle-stealers' raids from this side of the river, on the Lower Rio Grande. Although, no doubt, some allowance must be made for the customary over-statements of Texas editors, still, there is no doubt but that the wrongs complained of exist to a great extent, and that the articles referred to indicate anything but a friendly feeling between the people on the two sides of the river.

I hope you will be able to do something in this Kickapoo business, as it must be very evident to you that their remaining in Mexico will not add much to a complete harmony between the two nations, to say nothing of the terrible results that will follow a raid of Texans on this frontier.

I will continue sending you such Texas newspapers as I receive, and I have no doubt you can judge from them more clearly on these matters than from anything I can write.

I have the honor, &c.,

J. ULRICH,
United States Consul.

B.

Mr. Schuchardt to Mr. Nelson.

UNITED STATES COMMERCIAL AGENCY,
Piedras Negras, July 22, 1871.

SIR: In my communication of June 11 I had the honor to mention to you that a delegation from the Kickapoo reservation, in Kansas, had gone to Santa Rosa to treat with the Kickapoo Indians living in that vicinity, about their removal to the United States, and I offered to communicate to you the result. I have now the honor to inclose, for your information, an original letter on this subject, addressed to me by Mr. Miles, the United States Indian agent, giving a detailed statement of the whole matter. I have also sent several Texas papers, in which you may note the growing excitement in Texas in regard to the depredations committed by Mexicans and Indians living in Mexico. The latest depredations so near San Antonio were perpetrated, in my opinion, by that band of Lipanes and Mescaleros which, a few months ago, was provided by Mexicans on this side of the Rio Grande with ammunition and arms, and as soon as their means of warfare shall be exhausted they will probably again make their appearance in this vicinity, as usual, in order to trade off the plunder brought from Texas for new supplies.

I am, &c.,

WILLIAM SCHUCHARDT,
United States Commercial Agent.

No. 297.

Mr. Davis to Mr. Nelson.

No. 187.]

DEPARTMENT OF STATE,
Washington, September 6, 1871.

SIR: A communication has been addressed to this Department by the Secretary of War, dated the 1st instant, transmitting correspondence between General McCook, commanding officer of the sub-district of the Rio Grande, and Mr. T. F. Wilson, the consul at Matamoras, relative to depredations committed upon cattle in Texas by armed parties coming from the Mexican side of the border. It appears from this correspondence, copies of which are herewith inclosed, that our military authorities are unable to protect the property of our citizens without the co-operation of the Mexican officers. General Cortinas, the commander of the Mexican troops on the frontier, not only makes no endeavors to prevent the robberies, but is even believed to be in league with the marauders.

In view of these facts you are hereby instructed to lay the corres-

pendence transmitted to you before the Mexican government; to urgently demand the recall of General Cortinas from his present post, and to ask for the adoption of such efficient measures as will prevent the recurrence of these marauding incursions.

I am, &c.,

J. C. B. DAVIS.

[Inclosure.]

Mr. Belknap to Mr. Fish.

WAR DEPARTMENT,
Washington City, September 1, 1871.

SIR: I have the honor to inclose herewith, for your information, copy of a correspondence between the consul of the United States, at Matamoras, Mexico, and officers of the Army, stationed on the Texas frontier, relative to the complicity of Mexican officials with the depredations on that frontier.

Very respectfully, your obedient servant,

WM. W. BELKNAP,
Secretary of War.

The Hon. the SECRETARY OF STATE.

HEADQUARTERS FORT BROWN, TEXAS,
August 2, 1871.

SIR: I feel it my duty to communicate to you some information as to the condition of affairs on the line of the Rio Grande, where I have been stationed for the last four years, two years of that time commanding officer of the sub-district of the Rio Grande.

There is in existence on the frontier a system of cattle-stealing, which, if persisted in, will be disastrous to the stock-raising interests of Texas, and may lead to a predatory war on either side of the river, eventually producing a conflict between the two nations.

Armed parties cross from Mexico to Texas to steal cattle; from the scarcity of troops on this line, and the nature of the country bordering on the river, it is almost impossible to capture these bands unless caught in the act of crossing.

During the last month there have been several conflicts, and last week there was firing from both banks of the river at Rancho Nuevo, (Texas side,) six leagues above this place, resulting in the death of one man and wounding another, on the Mexican shore. This conflict took place between a band of marauders from Mexico and some citizens from Texas.

It will not require many such affairs to open the conflict, and, it is my opinion, that unless co-operation by the Mexican authorities be extended us, in breaking up these bands of marauders, there will be serious trouble in less than three months hence.

Since the arrival of General Juan M. Cortina and his troops upon the frontier, the marauding has increased tenfold.

General Cortina is charged in the public prints with being connected with the marauders, receiving and enjoying proceeds of said thefts. The object of this letter is to ask you to present to the authorities of Mexico these facts, in order that these evils and their causes may be done away with. General Miguel Palacios, Mexican army, commanding the regular troops at Matamoras, called upon me yesterday, asking me to co-operate with him, offering to do all in his power to put a stop to these outrages; but as long as General Cortina and his command are present, he is powerless to do good. Cortina's history and outlawry on the American bank of the river, in 1859, is, no doubt, familiar to you.

I respectfully inclose a transcript of the records of the district court of Cameron County, setting forth the indictment against Cortina in said county. There are other indictments of a like serious nature in the counties above.

I am, very respectfully, your obedient servant,

A. McD. MCCOOK,
Lieutenant Colonel Tenth Infantry, B't Maj. Gen. U. S. A., Commanding.

THOMAS F. WILSON,
Consul of the United States, Matamoras, Mexico.

A true copy.

J. F. STRETCH,
First Lieutenant Tenth United States Infantry, Post Adjutant.

Official copy.

H. CLAY WOOD,
Assistant Adjutant General.

HEADQUARTERS FORT BROWN, TEXAS,

August 2, 1871.

MY DEAR GENERAL: * * * * * There are other events occurring upon the frontier which you should be made acquainted with. The system of cattle-stealing here is most outrageous and scandalous, and since the arrival of the bandit Juan N. Cortina, general Mexican army, and his troops on the river, the marauding has increased tenfold. Several conflicts have taken place between the marauders and the citizens of Texas, last month, and last week at the Rancho Nuevo, (Texas side,) six leagues above here, there was firing from both banks of the river, resulting in the killing of one man and wounding another, on the Mexican shore. A few more such affairs and the conflict opens, and if the frontier continues in this condition three months a predatory war will ensue, possibly involving the two nations.

I am determined to do all I can to stop it, and General Palacios, commanding the regular troops in Matamoras, has appeared to co-operate with me, and it is necessary to have that murderer and thief, Cortina, removed or we cannot prevent trouble. He is charged in the public prints with being a party to the outrages, receiving and enjoying the proceeds of said thefts. As long as Cortina is here Palacios can do nothing. I think the absence of a cavalry force on this side has something to do with increasing the number of outrages. I know there is none to come, therefore ask for none, but will keep you advised from day to day about the matter, if anything of importance occurs. I send you a copy of a communication sent by me, yesterday, to Thomas P. Wilson, consul for the United States at Matamoras, a copy of which was furnished to General Palacios, who telegraphed the entire communication to the authorities in Mexico.

* * * * *

Very truly, yours,

General J. J. REYNOLDS.

Official copy.

A. MCD. MCCOOK.

H. C. WOOD,
Assistant Adjutant General.

CONSULATE OF THE UNITED STATES OF AMERICA,

Matamoras, August 3, 1871.

SIR: I have to acknowledge your communication dated yesterday, with its inclosures, in regard to cattle-stealing on the Texas frontier, by bands of Mexican marauders, and to inform you that I at once transmitted a copy of it to General Miguel Palacios, commander of the line of the Rio Grande, and will also forward a copy of it to the United States minister at the city of Mexico.

In a conversation which I had with General Palacios on the subject, he admitted the apparent complicity of General Cortina with the robbers, and informed me that he would represent the matter to the Mexican government, with a view to having General Cortina and his command recalled from the frontier. General Palacios at the same time manifested a lively disposition to check these robberies and restore order and quiet to the Rio Grande Valley.

I fully concur with you in the necessity of a prompt suppression of these robberies, and am satisfied it cannot be done while General Cortina holds the position he does in the Mexican army on this border. I assure you that it will always be my duty, as well as a pleasure, to second you in every way in my power to secure and maintain the observance of the laws on both sides of the Rio Grande.

I am, sir, your obedient servant,

THOS. F. WILSON,
Consul.

General A. MCD. MCCOOK,

Commanding the Sub-District of the Rio Grande, Brownsville, Texas.

A true copy.

J. F. STRETCH,
First Lieutenant Tenth Infantry, Post Adjutant.

Official copy.

H. CLAY WOOD,
Assistant Adjutant General.

HEADQUARTERS POST OF FORT BROWN, TEXAS,
August 4, 1871.

SIR: I have the honor to transmit herewith, for the information of the commanding officer of the department, copy of a letter addressed to Thomas F. Wilson, consul of the United States, Matamoras, Mexico, in reference to the condition of affairs on the line of the Rio Grande; also a copy of his reply.

Very respectfully, your obedient servant,

A. McD. MCCOOK,
*Lieutenant Colonel Tenth United States Infantry,
Brevet Major General U. S. A., Commanding.*

ASSISTANT ADJUTANT GENERAL,
Department of Texas, San Antonio, Texas.

(Two inclosures.)

Official copy.

H. CLAY WOOD,
Assistant Adjutant General.

No. 298.

Mr. Hunter to Mr. Nelson.

No. 188.]

DEPARTMENT OF STATE,
Washington, September 16, 1871.

SIR: Your dispatches, numbered 431, 432, 433, 434, 435, 436, 437, 438, 439, and 440, have been received.

With reference to the first of these dispatches, accompanied by correspondence between the Mexican government and the authorities of the custom-house at Tampico, in which the latter are ordered to exact a second payment of duties from the merchants of that city, I have to inform you that your intention to protest against this arbitrary exaction, so far as it may affect the rights of citizens of the United States, meets with the approval of this Department.

I am, &c.,

W. HUNTER,
Acting Secretary.

No. 299.

Mr. Nelson to Mr. Fish.

No. 447.]

LEGATION OF THE UNITED STATES,
Mexico, September 26, 1871. (Received October 13.)

SIR: Herewith I inclose a translation of a decree issued by the Mexican government on the 21st instant, closing the port of Magdalena Bay, Lower California, which was opened by a decree of the 24th of February last.

Your obedient servant,

THOMAS H. NELSON.

Hon. HAMILTON FISH,
Secretary of State, Washington.

[Translation.]

MEXICO, September 21, 1871.

The President of the republic has been pleased to address me the following decree:

"Benito Juarez, constitutional President of the United States of Mexico, to the inhabitants thereof:

"Know ye, that the land-grant made on the 31st of March, 1864, to the Lower California Colonization Company, having been declared null, from which it follows that the opening of Magdalena Bay as a port of entry has no longer any object; and in use of the powers given the executive by the XIV clause of article 85 of the constitution, I have thought proper to issue the following decree:

"The decree of the 24th of February last, by which the port called Magdalena Bay, in the territory of Lower California, was declared a port of entry, is hereby revoked, and the said port shall be closed from and after the 31st of December next.

"Therefore I order the above decree to be printed, published, circulated, and duly obeyed.

"Given in the national palace of Mexico, September 20, 1871.

"BENITO JUAREZ.

"The Citizen MATIAS ROMERO, *Minister of Finance, present.*"

And I communicate it to you for your information and the objects consequent thereupon.

Independence and liberty!

ROMERO.

No. 300.

Mr. Nelson to Mr. Fish.

No. 450.]

LEGATION OF THE UNITED STATES,
Mexico, September 29, 1871. (Received October 13.)

SIR: On the 21st instant I addressed a note to Mr. Mariscal, (A,) inclosing copies of a letter from General McCook, commanding the United States forces at Fort Brown, Texas, addressed to the American consul at Matamoras, and of a letter from the said consul to General Palacios, Mexican commander of the line of the Rio Grande, both relating to the alarming increase of a system of cattle-stealing by Mexican citizens on the Texan frontier, which, in the opinion of the writers, will result, if not speedily checked, in a predatory warfare eventually producing a conflict between the two nations.

General McCook further states that General Juan N. Cortina, the local military commander at Matamoras, is publicly charged with protecting the marauders and receiving a portion of the spoils; for which reason, after summarizing the opinions above expressed, and alluding to a record of numerous criminal indictments against the said Cortina, obtained by General McCook from various courts in Texas, and sent me by Consul Wilson, I intimated that the presence of Cortina on the frontier at this time is peculiarly unfortunate for the peace of the two countries. In this connection, I called Mr. Mariscal's attention to my note of the 6th of May last, upon the similar case of the robbery of horses from Mr. Albert Champion, repeating the language I then employed, under instructions from the State Department, as to the probable consequences of such depredations, and concluded by reminding the Mexican government that I still awaited the results of the investigation promised in the said case of Mr. Champion.

At the same time, I addressed Mr. Mariscal an unofficial note, (B,) inclosing and calling his attention to several Texas papers, containing articles upon this subject; to which Mr. Mariscal replied in a confiden-

tial note, (C,) assuring me that measures would be adopted tending to remedy that situation.

On the 22d instant, Mr. Mariscal addressed me a note, (D,) postponing to another occasion his reply upon the subject of cattle stealing, but inclosing four documents of the investigation into the case of Mr. Champion, namely: a request made by Mr. Mariscal to the war department, (E,) for the return of the said horses to Mr. Champion; the reply of General Mejia, (F,) transcribing a statement of General Cortina to the effect that he had returned a portion of the horses by virtue of a power of attorney from said Champion; a note of Mr. Mariscal to the war department, (G,) requesting a copy of such power of attorney; and another note from General Mejia, (H,) inclosing the copy requested.

To these documents I add a translation of an article that recently appeared in a paper of this city, (I,) defending General Cortina from the charges of the Texan press.

In an interview which I have had with Mr. Mariscal for the purpose of urging speedy and decisive action upon this subject, he remarked that the President, upon reading my note and its inclosures, was profoundly impressed with the gravity of the situation.

There is no doubt in my mind of an anxiety on the part of the government to put a check to these lawless proceedings, but, unfortunately, the chief difficulty arises from its want of power to enforce its mandates in States remote from the capital.

I would earnestly suggest to the Government of the United States the pressing necessity of arriving at some understanding with the government of Mexico, such as will remove, or at least mitigate, the present alarming condition of affairs upon the frontier.

Your obedient servant,

THOMAS H. NELSON.

Hon. HAMILTON FISH,
Secretary of State, Washington.

Inclosures.

- A.—Mr. Nelson to Mr. Mariscal.
- B.—Mr. Nelson to Mr. Mariscal, unofficial.
- C.—Mr. Mariscal to Mr. Nelson, unofficial.
- D.—Mr. Mariscal to Mr. Nelson.
- E.—Mr. Mariscal to war department.
- F.—War department to Mr. Mariscal.
- G.—Mr. Mariscal to war department.
- H.—War department to Mr. Mariscal.
- I.—Extract from Monitor Republicano.

A.

Mr. Nelson to Mr. Mariscal.

LEGATION OF THE UNITED STATES,
Mexico, September 21, 1871.

SIR: I inclose a copy of a communication from General A. McD. McCook, commanding the United States forces at Fort Brown, dated August 2, 1871, addressed to the United States consul at Matamoras, and also a copy of a communication addressed by the said consul to General Miguel Palacios, the Mexican commander on the line of the Rio Grande, dated August 3, both of which relate to the system of cattle stealing that prevails on the northern frontier, which, if not speedily checked, may, in the opinion

of General McCook and of the said consul, lead to predatory warfare on either side of the line, eventually producing a conflict between the two nations.

The excitement upon this subject is intense and increasing, and the offenders appear to be left in perfect impunity by the Mexican authorities. Indeed, it is alleged that they receive the protection of the Mexican General Cortina, whose antecedents, as proven by documents in my possession, render his presence on the frontier at this time peculiarly unfortunate for the peace of the two countries.

In this connection I beg leave to call your excellency's attention to my note of the 6th of May last, addressed to Mr. Aspiroz, and take this occasion to repeat most earnestly the language I was then instructed by my Government to employ, namely, "that the frequency of acts of this kind, and the virtual impunity of the offenders, would seem to demand some more efficient check than any which the treaties between the two countries afford. It is obviously for the interest of both countries that the government of each should do whatever may be in its power toward restraining and discouraging such lawless proceedings, and it is hoped that the Mexican government may take efficient steps for that purpose. If, however, no such steps should be taken, it may become difficult to prevent retaliation by raids of armed parties from Texas into Mexico, which could not fail to peril the peaceful relations on the border."

I would further remind your excellency that I am still awaiting, with great interest, the communication of the results of the investigation in the said case of Albert Champion, which was promised by Mr. Aspiroz in his note of the 9th of May last.

I improve this occasion again to renew to your excellency the assurance of my very high consideration.

THOMAS H. NELSON.

His Excellency IGNACIO MARISCAL,
Minister of Foreign Affairs, Mexico.

B.

Mr. Nelson to Mr. Mariscal.

[Unofficial.]

LEGATION OF THE UNITED STATES,
Mexico, September 21, 1871.

MY DEAR MR. MARISCAL: I send you some newspapers, recently received from Texas, containing articles relating to cattle stealing on the border, and the extraordinary conduct of General Cortina, to which I invite your attention.

Very truly yours,

THOMAS H. NELSON.

C.

Mr. Mariscal to Mr. Nelson.

Private.]

MEXICO, September 23, 1871.

MY DEAR MR. NELSON: I received your letter of the 21st instant, with the accompanying newspapers from Texas, relative to cattle stealing on the border. The attention of the President has been called to that subject, and some measures will be adopted tending to remedy that situation.

Very truly yours,

IGNACIO MARISCAL.

D.

Mr. Mariscal to Mr. Nelson.

[Translation.]

DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, September 22, 1871.

SIR: I have had the honor to receive your excellency's note of yesterday, with its inclosures, relating to accusations of cattle stealing, said to have taken place on the frontier of Tamaulipas, in which connection your excellency repeats the statement

which, by order of your Government, you made on the subject to this ministry in your note of the 6th of May last, and also informs me that you await with great interest the result of the investigation in the case of Albert Champion. Reserving for another occasion my reply upon the subject of cattle stealing, to which the inclosures and papers accompanying your note refer, and complying with your wishes in regard to the case of Mr. Champion, I have the pleasure of inclosing the most recent communications that have been exchanged in reference to the complaints of the party interested.

I take pleasure in renewing to your excellency, upon this occasion, the assurances of the very distinguished consideration with which I am your excellency's obedient servant,

IGNACIO MARISCAL.

His Excellency THOMAS H. NELSON,
&c., &c., &c., Mexico.

E.

Mr. Mariscal to War Department.

[Translation.]

MEXICO, June 23, 1871.

CITIZEN MINISTER OF WAR: As it appears from the report of General Cortina, which you have sent me, dated the 12th instant, concerning the robbery of some horses from Mr. Albert Champion, that only a portion of these horses were returned to him; you will please order the return of the remaining horses, and that the fulfillment of this order be forthwith reported.

Independence and liberty!

MARISCAL.

F.

War Department to Mr. Mariscal.

[Translation.]

MEXICO, July 31, 1871.

CITIZEN MINISTER OF FOREIGN AFFAIRS: General Juan N. Cortina, commanding the first brigade of Tamaulipas, in a dispatch of the 19th instant, writes me as follows:

"In reply to your note of the 27th ultimo, I have to inform you that as I have no horses belonging to Mr. Champion in my possession, I cannot return any to him; since, although it is true that I returned him some of those which he is alleged to have lost, it was because they were in possession of certain persons who had bought them, and, through the influence of some of my friends, I succeeded in obtaining them, and ordered them to be delivered to the said Champion, by virtue of a power of attorney which that foreigner gave me to act for him in the recovery of the horses."

And I have the honor to transcribe the above to you, in reply to and as the result of your dispatch on this subject, of the 23d of June last.

Independence and liberty!

MEJIA.

G.

Mr. Mariscal to War Department.

[Translation.]

MEXICO, August 5, 1871.

CITIZEN MINISTER OF WAR: I have received your dispatch of the 31st ultimo, in which you have transcribed the report made to you by General Juan N. Cortina, concerning the robbery of horses from the American, Champion.

For the satisfactory termination of this question, you will please request of General Cortina a copy of the power of attorney to which he refers in his dispatch, recognized by Champion, and legalized by some judge or notary public.

Independence and liberty!

MARISCAL.

H.

[Translation.]

WAR DEPARTMENT, *Mexico, September 11, 1871.*

CITIZEN MINISTER OF FOREIGN AFFAIRS: The citizen General Juan N. Cortina, commanding the first brigade of Tamaulipas, in a dispatch dated the 28th of August last, writes me as follows:

"I have the honor to send you a copy of the power of attorney which the foreigner, Champion, gave me in order to recover nine horses, which some bandits had robbed from him in the State of Texas."

And I have the honor to transmit the above in reply to and as the result of your dispatch on the subject, dated August 5, inclosing herewith a copy of the said power of attorney.

Independence and liberty!

MEJIA.

BROWNSVILLE, *February 13, 1871.*

MY DEAR SIR: The nine horses that were robbed from me were of the following colors and marks: (Description of the horses.) These nine horses were stolen on the night of the 7th instant, at the post of Las Torrenas, and I shall be infinitely obliged to you if you will, as you offered, undertake to find where they are and return them to me, for which service you will ever receive the gratitude of—

Your obedient servant,

ALBERT CHAMPION.

General JUAN N. CORTINA.

A true copy of the original. Matamoras, August 28, 1871.

[SEAL.]

LEANDRO RAMIREZ,
Notary Public.

I.

[Translation.]

GENERAL JUAN N. CORTINA.

For some time past the press of Brownsville has labored to discredit this Mexican patriot by the grossest calumnies. We are not surprised at this vile conduct, for we know the motives which the Brownsville editors have for blackening his fame. General Cortina is well known on the frontier as the bitterest enemy of the confederates of that part of Texas, where it is known that our countrymen enjoy no protection, and are often barbarously assassinated after the burning of their property.

The perpetrators of such murders have sometimes crossed the frontier in order to commit new depredations in our country, and General Cortina, being informed in time, has caught them in the act, and without pity has ordered them to be hung or shot as malefactors. The Brownsville press, on such occasions, has been filled with insults and menaces against all Mexicans, and particularly against General Cortina. At such times the most exaggerated rumors have been set afloat, announcing grave questions at issue between Mexico and the United States; the absorption of our country by the great republic; fabulous claims of Americans; and the magical appearance of two hundred or three hundred thousand negroes on our frontier whenever and however these turbulent prophets may choose.

But what most surprises us is that there are Mexican newspaper writers who have formed an alliance with those of Brownsville to attack the Fronterizo, an independent paper published at Matamoras, which honorably and bravely defends the rights of our countrymen residing in Texas, who are, as this colleague asserts, made victims in their persons and property of notorious abuses by our neighbors. Is it because the Fronterizo is in favor of the re-election? or is it because it defends General Cortina from unjust attacks and infamous calumnies? Is it necessary now to insult this meritorious citizen through the agency of our neighbors? because he has employed his numerous friendships upon the frontier for the triumph of Mr. Juarez? Really, it is deplorable that any one should allow himself to be carried by party spirit to such an extreme. We regret it; for in such conduct we see nothing noble or even decent.

As to these attacks upon General Cortina, we will content ourselves at present with copying the following from the Brownsville Sentinel:

"The Fronterizo alleges that when, during the civil war, General Cortina was military commandant of the State of Tamaulipas, he treated the Americans courteously, kindly, and with moderation; not even molesting his personal enemies. General Cortina undoubtedly deserves all that is said in his favor in this respect. There were then many millions of dollars of American property on the Mexican side, and there was full protection for persons and interests."—*Monitor Republicano*, September 27, 1871.

N I C A R A G U A .

No. 301.

Mr. Riotte to Mr. Hunter.

No. 71.]

UNITED STATES LEGATION,
Leon, March 8, 1871. (Received April 1.)

SIR: I have the honor of transmitting to you inclosed—

1. Copy of the resignation of President Quadra, with translation thereof, (inclosure 1.)

2. Copy of my note of February 27 last to Mr. T. Ayon, transmitting to him copy of the address I proposed to direct to President Quadra upon his inauguration, with that address in the Spanish original and translation, (inclosures 2 and 3.)

3. Copy of Mr. Ayon's reply of the 1st instant, communicating the answer President Quadra would give to my address, together with that answer and translation of both documents, (inclosures 4 and 5.)

4. Copy and translation of Minister Rivas's note of the 4th instant, sending an autograph letter of President Quadra to President Grant, informing him of his having taken possession of the presidency, along with a translation of that letter and a copy of my note of 6th instant, acknowledging the receipt of Mr. Rivas's communication, (inclosures 6, 7, and 8.)

You will please perceive from these documents, that after the twice-repeated resignation of Mr. Vicente Quadra, the President elect, had been rejected, and he, as it were, been compelled to accept the presidency, I went to the capital to assist in his inauguration, being well persuaded that both by him and by the people at large the presence of the representative of the United States would be considered a high compliment.

During my sojourn at Managua, I was received and treated with the most distinguished consideration on all sides, and by no one more so than by Mr. Quadra himself. It had been agreed by the consuls present and myself, and I had so informed the government, that I would address the new President. As soon, however, as I learned that meantime an envoy extraordinary and minister plenipotentiary from Salvador had arrived, I informed Mr. Minister Rivas, who had tendered me the hospitality of his house, that inasmuch as the gentleman from Salvador had a higher rank than mine, I would withdraw my address. He thereupon had an interview with Mr. Quadra, in consequence of which he stated to me that the President desired me to deliver my address first, and that he would settle the point of etiquette with the Salvadorian envoy.

I am happy to say that Mr. Quadra did make a very favorable impression upon me. He is—quite a rare exception among these people—very plain-spoken, but I do not doubt thoroughly honest and well-meaning; he never uses a phrase without just meaning what it implies. Quite another question is, whether he will be able to overcome the terrible difficulties in his path. I should not be astonished to find him possessed of the will and energy to do it; but I fear he and his administration will encounter their most determined opponents in any progressive move among their so-called friends. He did me the favor of asking my permission to consult me privately on any question that might occur to him, and of assuring me that any advice I might volunteer would receive from him the fullest consideration.

* * * * *

Ex-President Guzman behaved exceedingly well in the transfer of power, a moment ever critical in these countries. At the head of the consuls I paid him a valedictory visit, addressing him with a few appropriate words.

During my last interview with Mr. Quadra, in the presence of Minister General Rivas, I urgently requested him to use his influence with congress in having the extradition treaty ratified at an early day, and particularly in paving a way toward a satisfactory claims convention, of the history whereof I gave a cursory recital. I also requested him to look into a very plain claim of an American citizen, wherein I have been corresponding with Mr. Ayon for months. He promised to act upon my suggestion.

Allow me, in conclusion, to submit whether, under the peculiar circumstances, in President Grant's reply, a few words of cheer, which, coming from that source would be very highly appreciated, would not be appropriate. Mr. Quadra several times, and very emphatically, gave words to his sincere admiration for and sympathy with our President, Government, and nation.

I have, &c.,

C. N. RIOTTE.

P. S.—I also inclose copy and translation of a note of Mr. T. Ayon, of the 21st February last, informing me of Mr. Vicente Quadra's election to the presidency, and inviting me to attend his inauguration, along with copy of my reply of the 23d of February. (Inclosures 9 and 10.)

RIOTTE.

[Inclosure 1.—Translation.]

RESIGNATION OF THE PRESIDENT ELECT, MR. VICENTE QUADRA.

Hon. Senators and Representatives :

The prefect of the department, commissioned by the supreme government, laid, on the 25th instant, into my hands the decree of the 24th instant, wherein you declare me popularly and constitutionally elected to serve in the presidency of the republic during the new period commencing the 1st of March next. The vote of confidence I have received from my fellow-citizens calling me, without any merit on my side, to the first magistracy of the nation, has highly engaged my gratitude, and I shall never forget such distinguished proof of the good opinion they entertain of me. I will frankly confess to you that I much wish to be possessed of the abilities necessary to worthily perform that high and elevated trust, for then I would not trepitate to accept it, notwithstanding the sacrifice of my personal interests involved thereby; but I would poorly correspond to the confidence placed in me if, with the innermost conviction entertained by me of my absolute incompetency, I should resolve upon serving in a station which I do not consider proper for me, and so much more, as there are plenty

of conspicuous citizens able to perform it in a satisfactory manner. No, gentlemen; my conscience, my honor, the love for my country, impose upon me the duty to resign the presidency; and upon you, your honor, your conscience, and the mission you have received to guard the welfare of the nation, to accept my resignation in order that the people may select another person, who, with better information and a more extended practical knowledge of public affairs, shall understand how to lead her on the road of prosperity and greatness.

It must not be thought that my opinion on my incapacity is the result of false modesty nor should my declining the presidency be attributed to a sentiment of paltry egotism. Nothing of that, gentlemen! You have been witnesses to my life, and the classes of business I have practiced. I am an absolute stranger to politics, and know nothing of the science of government. How should I be able to bring to a felicitous conclusion the arduous and difficult enterprise to administer the interests of a nation barely constituted, if I am permitted to say so, and wherein there are so many obstacles to be removed merely to put her on the road of prosperity? True, I have the best intentions to gain the welfare of my country, but intentions alone will not do; something more is necessary, which I am wanting of.

Aside from what I have said, you have to take in consideration my weak and sickly constitution. From the accompanying documents you will perceive that I am suffering from an infirmity which, at certain periods, prevents me from every active exercise and, above all, from mental occupations. Should, after having taken charge of the presidency, that infirmity attack me, then I would find myself in the painful position of being unable to devote to the dispatching of the public affairs the time required or of being compelled frequently to lay down the office for a time, either of which contingency I deem pernicious to the interests of the nation. In my letter to the district electors of October 8 last, I explained to them all the inconvenience resulting from my election; but since they were not pleased to desist, it is now for you to do me justice by admitting my resignation of the presidency, hereby offered in the most formal manner. The interests of the nation demand it, and you cannot disregard them.

GRANADA, *January 29, 1871.*

VICENTE QUADRA.

[Inclosure 2.]

UNITED STATES LEGATION IN NICARAGUA,
Managua, February 29, 1871.

HON. TOMAS AYON, &c., &c.:

I beg leave to communicate to you inclosed copy of the address which I purpose to direct to his excellency the President elect on the occasion of his inauguration, which I would request you to submit to him, taking his pleasure on the hour when he will receive myself and the consuls of Germany, of Italy, of the United States of Colombia, and Peru, accompanying me.

I have the honor, &c., &c.,

C. N. RIOTTE.

[Inclosure 3.—Translation.]

ADDRESS.

MR. PRESIDENT: I have the honor, united with four members of the consular body, to offer to you our congratulations for your happy inauguration to the first magistracy of the nation, and equally to the people of Nicaragua for having confided the supreme executive power to so distinguished a citizen, to so pure and energetic hands, and to a character so frank and firm.

The foreign nations we represent have no other desire, as they have no other interest, but that this nation, making a proper and ample use of the treasure bestowed upon it by nature on the road of order and of peaceable progress, may reach that degree of well-being, prosperity, and growth to which it is destined, and they are ready to make more and more intimate the friendly relations subsisting between them and this republic.

I, in particular, feel authorized to assure you, with all frankness, that my nation, my government, and I myself anxiously wish to establish those relations upon a footing of mutual advantage, of true republican fraternity and reciprocal respect, based upon that justice which forms the indispensable foundation of all human relations, domestic as well as municipal, political as well as international.

Would that, from the solemn act to-day celebrated by the nation, a new era in the annals of the republic might be dated!

[Inclosure 4.—Translation.]

I have the honor of transmitting to Mr. Minister Riotte copy of the reply his excellency President Quadra will make to the address whereby Mr. Riotte, in behalf of the diplomatic and consular corps, will congratulate him upon his inauguration to the nation's first magistracy.

I am happy to inform Mr. Riotte that one of the president's adjutants will be at his house at 12 o'clock to-day to accompany him to the national palace.

I remain Mr. Riotte's, &c., &c.,

TOMAS AYON.

[Inclosure 5.—Translation.]

President Quadra's reply.

I thank your excellency for the highly gracious terms wherein, in behalf of the honorable diplomatic and consular corps, you have deigned to congratulate me upon my inauguration to the first magistracy of the nation.

One of my principal designs in the fulfillment of the functions devolved upon me will be to cultivate with the illustrious governments represented by the honorable gentlemen of the diplomatic body, the most frank and friendly relations, and to adopt measures for increasing the commerce of their citizens with the republic of Nicaragua.

I am of opinion that what they need to develop the important material interests they are importing to the Hispano-American republics of the New World, is security for their persons and their property. I shall endeavor to give it, complying with the sacred duty imposed upon me by society and by the laws, and I shall, to that end, make use of all the means at my command.

I offer to the honorable gentlemen of the diplomatic and consular corps my most cordial greetings, and beg them to transmit to their governments (the expression of) my great sympathy and high consideration.

[Inclosure 6.—Translation.]

I have the honor of transmitting to Mr. Minister Riotte an autograph letter directed to the most excellent President of the United States by his excellency President Vicente Quadra, informing him of his having taken possession of the presidency of the republic.

From the copy inclosed Mr. Minister Riotte will be advised of the contents of that letter.

I also submit to Mr. Riotte a printed exemplar of the decree issued by the President organizing his cabinet.

I offer to Mr. Riotte, &c., &c.

A. H. RIVAS.

[Inclosure No. 7.—Translation.]

Vicente Quadra, President of the Republic of Nicaragua, to his excellency the President of the United States of America.

MOST EXCELLENT SIR: I have the honor of informing your excellency that, after my fellow-citizens did confide to me the difficult task of governing this republic during the present constitutional period, I have taken possession of the presidency on the 1st instant. Among the momentous duties devolved upon me by the position wherein I find myself placed, I consider as the most essential for the well-being of the people who laid this destiny into my hands, to cultivate the good relations existing between this nation and the one you so worthily govern.

Anxiously interested in the progress of the nation, your excellency will find me always disposed to promote and second everything tending to augment international sympathies. In this sense it is highly satisfactory to me to offer to your excellency my friendship and consideration.

May God protect your excellency, keeping you in His holy care.

I am your excellency's sincere and good friend,

VICENTE QUADRA.

The minister general, A. H. RIVAS.

NATIONAL PALACE, Managua, March 4, 1871.

For correct copy.

A. H. RIVAS.

[Inclosure No. 8.]

MANAGUA, March 6, 1871

Hon. A. H. RIVAS, *Minister General*:

I have the honor of acknowledging the receipt of your note of the 4th instant, transmitting an autograph letter of his excellency President V. Quadra to the President of the United States of America, with copy thereof, apprising him of his having taken possession of the presidency of this republic on the 1st instant.

I beg, Mr. Minister General Rivas, to assure his excellency that I shall be happy to forward said letter to its destination by the first opportunity.

I have the honor, &c.,

C. N. RIOTTE.

[Inclosure No. 9.—Translation.]

I have the honor of informing Mr. Minister Riote that the congress of the republic has declared the citizen Vicente Quadra popularly and constitutionally elected President of Nicaragua for the period commencing the 1st of March next and ending the last of February, 1875.

The President elect will take possession of the supreme magistracy of the republic the first of next month, and it would give great satisfaction to the government if Mr. Minister Riote would deign to be present at this capital, there to confer by his presence greater solemnity to that act.

On this occasion I am happy to repeat, &c., &c.

TOMAS AYON

[Inclosure No. 10.]

UNITED STATES LEGATION, NICARAGUA.

Leon, February 23, 1871

Hon. Mr. TOMAS AYON, *&c., &c.*:

I had the honor of receiving Mr. Minister Ayon's note of the 21st instant, apprising me officially of the election of Mr. Vicente Quadra President of the republic for the ensuing constitutional term, and inviting me, on behalf of his government, to attend and participate in that gentleman's inauguration at the capital on the 1st day of the month.

I beg Mr. Ayon to express to his government my thanks for the attention thus shown to me, and to inform it that it is my purpose to correspond to the courteous invitation to be present at that grave and solemn act.

I have the honor, &c., &c.,

C. N. RIOTTE.

No. 302.

Mr. Riote to Mr. Fish.

No. 79.]

UNITED STATES LEGATION.

Leon, May 22, 1871.

SIR: I beg to acknowledge the receipt of your dispatch No. 51, 24th ultimo.

Inclosed I have the honor of submitting to you copies and translations of correspondence had with the Nicaragua government on the subjects, viz, the autograph letter from President Grant to President Quadra on the latter's elevation to the presidency, and the maritime canal across Nicaragua. Being persuaded that the practicability of this line and its merits, as compared to other lines, will be investigated by the very best authorities, and the only ones competent to decide, I cannot deem myself warranted to offer an opinion on it. The reasons urged in Mr. Balladare's note in behalf of the Nicaragua line are well founded, and I do not hesitate to express the conviction that President Quadra sincerely prefers to have the enterprise fall into the hands of

Americans in preference to any other nation. The Franco Lefevre contract, reported on in my dispatch No. 72, came up in the senate session of March 14, as I learn from the proceedings published but four days ago, and that body advised the government not to submit it to the approbation of the sovereign, (Toberano, the modest title used for congress,) since it was onerous for the country. Thus it will sleep along with the Chevalier and so many contracts upon the same subject.

I have, &c.,

C. N. RIOTTE.

[Translation.]

MANAGUA, May 11, 1871.

SIR: I have received order from his excellency the President of the republic to direct to you this dispatch, to lay before you a subject of the highest importance, wherein the Nicaraguan government is very much interested. His excellency the President has learned from publications of foreign papers, and from some dispatches you have directed to my department, that the Government of the American Union, for some time already, is occupied with decided energy to find out which may be the most advantageous spot for excavating a maritime canal to connect the Atlantic and Pacific, across the American isthmus. To that important end it has sent out exploring commissions to Darien and Tehuantepec, without till this day attaining the desired result.

It has occurred to my government that these scientific expeditions were not from beginning sent to the territory of this republic, when everything seems to indicate that it is here where the grand problem, traced out since the days of the discovery of America, must receive its practical solution.

A slight glance upon the map of this continent suffices to become assured that Nicaragua, with her navigable rivers, her interior lakes, and the short distance intervening between them and the Pacific, is the point presenting the best conditions for the practicability of that work of universal interest. These and other favorable circumstances whereof you are well aware, as for the benignity of the climate, the proximity to the road to the centers of the population, the abundance of provisions, the sympathies of the Nicaraguan people for the American, &c., ought to have induced the American Government to dispatch said expedition to this republic, and that it did not induce the government of Nicaragua to assume that the Washington Cabinet was not fully cognizant of said circumstances, or that it was preoccupied by incorrect or interested accounts, which may have originated in the desire to call the attention of the American Government and people to localities they were referring to. For these reasons the undersigned was ordered to forward to your excellency, as I herewith do in a separate package, a series of documents relative to the principal studies hitherto made upon the Nicaraguan canal, among which are found plans and other data throwing abundant light upon that most important subject. The undersigned hopes that your excellency will be pleased to transmit those documents to the government you represent, for whatever they may be worth to it, in case it should not have had prior knowledge thereof. And, furthermore, he hopes that you will be pleased to lay before that Government all the information favorable to the project, derived from your acquaintance of the country, and also to assure it that the Nicaraguan government is fully inclined to lend to the American commission that may come for exploring the territory of the republic all the co-operation it is capable of.

For the government of the undersigned it would be very satisfactory if, in consequence of that exploration, that gigantic work would be put on the way of realization, which truly would form one of the wonders of the age; and it is unquestionable that the initiative taken by President Grant in the matter will secure to him a lasting fame.

Having thus complied with the order of his excellency the President, the undersigned has happy to renew, &c., &c.

FRANCISCO BALLADARES.

Hon. C. N. RIOTTE, &c., &c.

[Inclosure 2.]

UNITED STATES LEGATION, *Leon*, May 15, 1871.Hon. FRANCISCO BALLADARES, *fc., fc.*:

I have the honor of acknowledging the receipt of your interesting note of the 11th instant, relating to the interoceanic canal across this republic, and will not fail to submit it to my government by the earliest opportunity. The "documents relative to the principal studies had on the subject" have, as yet, not reached me.

I remain, &c.,

C. N. RIOTTE.

No. 303.

Mr. Riote to Mr. Fish.

No. 80.]

UNITED STATES LEGATION,
Leon, June 15, 1871. (Received July 14.)

SIR: I have the honor of acknowledging the receipt of your dispatches Nos. 52 and 53, of respectively April 26 and May 9 last.

The inclosed correspondence explains itself, and requires no additional remarks of mine.

The parcel therein alluded to leaves with this dispatch, marked S. D.

I have the honor, &c.,

C. N. RIOTTE.

List of inclosures.

1. Copy of my note to Minister Balladares's, of May 28 ultimo, acknowledging the receipt of a parcel destined for the Government of the United States.

2. Copy and translation of Mr. Ballarades's note of June 10, advising me of having dispatched another parcel with the same destination.

3. Copy of my note of this day to Mr. Balladares, acknowledging the receipt of notes and parcel.

[Inclosure 1.]

*Mr. Riote to Mr. Balladares.*UNITED STATES LEGATION IN NICARAGUA,
Leon, May 28, 1871.Hon. FRANCISCO BALLADARES, *fc., fc., fc.*:

* * * * I beg to advise you that the parcel of documents, pertaining to your note of the 11th instant upon the canal across this republic, came to my hands, and was forwarded to Washington on the 24th instant, and, also, that I have received your dispatch of 15th instant, informing me of the appointment of Mr. Rafael Zurita to be sub-secretary for foreign relations.

I have the honor, &c.,

C. N. RIOTTE.

[Inclosure 2.—Translation.]

Mr. Balladares to Mr. Riote.

MANAGUA, June 10, 1871.

Mr. C. N. RIOTTE, *fc., fc.*:

By your esteemed communication of the 28th ultimo, I was informed that the parcel of documents relative to the interoceanic canal came to your hands and was dispatched to Washington the 24th of the same month.

I offer to your excellency my best thanks for your promptness. Since it is the President's constant wish to collect all possible documents relating to that most grand enterprise, in order that the Government of the United States may take cognizance thereof and estimate their merits, he has ordered me to forward to you the report submitted to him by the civil engineer of the republic, to the end that it may be, by your intervention, sent to the high cognizance of his excellency the President of the United States.

I have the pleasure, &c., &c.,

FRANCISCO BALLADARES.

[Inclosure 3.]

Mr. Riote to Mr. Balladares.

UNITED STATES LEGATION IN NICARAGUA,
Leon, June 15, 1871.

Hon. DON FRANCISCO BALLADARES, &c., &c.:

* * * I have the honor of herewith acknowledging the receipt of your note of the 10th instant, and of a parcel directed to me, stamped with the seal of your department, and delivered to me by Don Buenaventura Selva, which I will forward to my Government with the next steamer, that of the 24th instant.

I beg Mr. Minister Balladares, &c.,

C. N. RIOTTE.

REPORT CONCERNING THE ROUTE FOR THE NICARAGUA CANAL, 1871.

Mr. President of the Republic of Nicaragua :

In your inaugural address you expressed a desire to receive some information with regard to the route of the Nicaragua Canal. This I now have the honor to offer.

The route of the Nicaragua Canal by water, is the river San Juan and Lake Nicaragua; thence across the isthmus from Lake Nicaragua to the Pacific Ocean. We find two feasible routes: the one through the plain of Jocote, via the river of Las Lajas, which flows into Lake Nicaragua, and the river Brito, which flows into the Pacific; the other through the plain of Ochomogo, via the Ochomogo River, which flows into Lake Nicaragua, and the Escalante River, which flows into the Pacific Ocean.

We will now show the situation of the proposed routes for the Nicaragua Canal from the Atlantic to the Pacific.

The world has already been informed by the reports of explorations made at various times of the American isthmus, that a canal through it is nowhere positively feasible, save in Nicaragua. Many celebrated authors have written upon this subject, whose works are so well known that I think it unnecessary to quote from them.

But what has corroborated this opinion, already so well founded, has been the recent exploration made under the auspices of the Government of the United States of America in the territory of Colombia.

Captain Selfridge, accompanied by very skillful engineers and a complete *personnel* of the various branches of science, after a careful examination, lasting more than five months, declared that it was not possible to open a canal by any of the routes proposed in that territory.

In like manner Commander Shufeldt, on the Tehuantepec route, did not find a practical line for the canal.

Thus it is that, as I said at the beginning, it is only through Nicaragua that this enterprise, the accomplishment of which is so anxiously desired by the friends of human progress, can be carried out.

The most important surveys which have been made by this route are three, which have indicated three points at which the excavation of a canal has seemed possible. I shall treat of these as briefly as possible, in order to pass on to the consideration of a route which, in my opinion, is the easiest of all that have been proposed; and this is the only object of my correspondence.

Commencing in chronological order, we find that the first survey was the one made by Mr. Bailey, an English engineer, for the Central American federation, in the year 1827.

In the first place, I think it will be understood, as a matter of course, that all the surveys which have been made in this country have had for their bases the San Juan River and Lake Nicaragua, which, on account of the abundance of their waters, offer great facilities for a work of this kind; so that, in speaking of the three surveys which I have just mentioned, I shall omit the river and the lake, and shall confine myself to the land portion, where the excavation, properly so called, is to be made.

Returning, then, to the survey of Mr. Bailey; this engineer proposes the line from La Virgin (a port lying to the southeast of Lake Nicaragua in the department of Rivas to San Juan del Sur, (a port of Nicaragua on the Pacific,) a distance of twelve English miles.

This line does, indeed, pass through the narrowest portion of the Isthmus of Nicaragua; but there is an elevation on it, which, at its highest point, is not less than 34 feet above the level of Lake Nicaragua, the latter being 128 feet above the level of the Pacific. It is readily seen that such an elevation would render any excavation, with the lock system, well-nigh impossible, unless by means of a tunnel; and what a vast amount of labor and money would be necessary to dig a tunnel at such a height, for a distance of three miles! This line, therefore, is not to be considered.

In the second place, we find the line proposed by Colonel Childs, in consequence of the survey made by this experienced engineer in the year 1851.

The press of the country has recently directed attention to the labors of this gentleman, reproducing an able letter from Mr. Body to the New York Herald. The remarks therein made concerning this route are, indeed, very judicious.

He proposes that the digging of the canal commence at the river Las Lajas, which empties into Lake Nicaragua, passing through the plain of Jocote to the river Brito, which flows into the Pacific. The length of the cut is nineteen English miles, and its greatest height 46 feet, that is to say, 318 less than the cut proposed by Mr. Bailey, so that this line would really be very easy, so far as the digging of the canal is concerned. But here we find two very serious difficulties, to overcome which a vast amount of money would be required, which would enormously augment the total cost of the work. These difficulties are the two ports in Lake Nicaragua and the Pacific Ocean.

The first, at the mouth of the river Las Lajas, has only from one to five feet of water for a distance of three-quarters of a mile, on a formation of very hard rocks, where it would be necessary to blast by means of mines, with great labor and outlay of money, and on an entirely open coast. The second, the bocana of the river Brito, which flows into the Pacific, presents the same difficulties. Its depth, at high tide, is from nine to eleven feet; at low tide, from three to four, likewise on the formation of living rock. It is, therefore, evident that this line, although it offers many advantages, presents at the same time, difficulties which, if not insurmountable, are at least of such a character as to merit very serious attention. The estimated cost of this line, according to the report of Colonel Childs, is \$32,000,000.

In the third place we have to consider the surveys made by Mr. Bailey. It was not believed, for some time, that this gentleman would succeed in accomplishing the object for which he labored so long and so earnestly, so great was the enthusiasm with which his project was embraced by the governments of Nicaragua and Costa Rica. The result of which enthusiasm was the contract of 1858; but we were doomed again to suffer a sad disappointment. The line proposed by Mr. Bailey has fallen, like some others, into almost total oblivion. His opinion is, that the best line is that of the river Sapoá, (which empties into Lake Nicaragua to the south of the port of La Virgen already referred to,) to the bay of Salinas, in the Pacific. The distance from one point to the other is about seventeen miles; its greatest elevation, 360 feet.

In this line we meet, as is seen, with the same difficulties as in that of Mr. Bailey in regard to elevation; there being, moreover, an objection in the port of the lake—the bocana of the Sapoá—which is entirely closed for ten months in the year, which would require a complete artificial port, that it might be rendered serviceable even for vessels of light draught.

Beside the three surveys of which I have just spoken there is a fourth plan, which has never, to my knowledge, become the object of a regular survey. I mean the one of Prince Napoleon.

This project has attracted the attention of the world, more, perhaps, on account of the author than of its real importance and possible realization. It also awakened considerable enthusiasm in Nicaragua, since the prisoner of Ham offered a line crossing the country nearly at its widest extent, would disseminate the benefits of human progress and of incalculable wealth throughout the length and breadth of the land.

But the commerce of the world needs a line presenting, as far as possible, the conditions of facility and economy, and these are by no means offered by the Napoleon project. This commences at the port of San Juan del Norte and the San Juan del Sur, as do all the rest, and, passing through Lake Nicaragua, continues via the Tuxtepec River as far as Lake Managua; and the digging of the canal would commence at that point to the west of this lake, and continue as far as the Frith of Realajo, which forms the port of Corinth, or the Estero Real, which empties into the Bay of Fonseca.

The extent of the digging—properly so called—of both lines, would be from fifty to fifty-two English miles, with a height of 290 feet on the Realajo route, on the Asunción estate, and on the Estero Real route on the Loma Tiesa estate.

As is seen, so extensive an excavation would, in itself, cost much time and not a few millions. Besides this, however, there is an insurmountable difficulty, which renders this line impracticable. I refer to Lake Managua.

This body of water would have to supply both of the cuts to which we have referred, and likewise the Tipitapa River as far as Lake Nicaragua, since it is 28 feet higher than this latter. But the soundings which have been taken at various times in Lake Managua have clearly shown that it does not contain sufficient water to supply even one of the two excavations. This plan is therefore even more impracticable than the others.

The impracticability of the existing projects having been demonstrated, I pass on to speak of the line which, as I stated at the outset, seems to me the only one which is in every respect easy of construction, and which I believe to have been hitherto unknown to the scientific world. It begins at the mouth of the Ochomogo River, to the east of Lake Nicaragua, in $11^{\circ} 20'$ north latitude, and 86° longitude from Greenwich; it crosses this river four miles higher up, passes through the estates San Rafael and Los Camarones, which are the property of Mr. Vicente Quadra, passes through Camarones Creek and enters the Escalante River, the latter flowing into the Pacific at the port of Escalante. The entire extent of this distance is 24 geographical miles. Its greatest height, on the estate Camarones, is 36 feet; that is 10 feet less than the greatest height on the line via the river Las Lajas, proposed by Colonel Childs, which we consider the most practicable of the three which have been proposed through Nicaragua.

In order to show that my examination of this route has been carefully made, I will state, with the greatest exactness, the measurements of the whole line, beginning with the port of San Juan del Norte and extending as far as the port of Escalante.

Before beginning the description of the route of the canal from ocean to ocean, it seems to me necessary to say something with regard to the great body of water called Lake Nicaragua. The chief advantage of the Nicaragua route for a canal is its inexhaustible supply of water precisely at its greatest height. The lake is, on an average, eighteen miles long and twenty-five miles wide; its area is therefore more than two thousand square miles, and it receives all the waters of the rains for more than two hundred miles in length, and for eighty and even a hundred miles in width. In a word, it is the great receptacle of the waters of Central America, and this unquestionable fact clearly points to this as the line for an interoceanic canal. The amount of water discharged by Lake Nicaragua is, on an average, 2,846,340 cubic feet per minute. Supposing the locks to be 200 feet long, 100 wide, and 20 deep, a volume of water is required of 400,000 cubic feet, which for the two sides makes 800,000 cubic feet for each passage of a vessel. These figures prove that the discharge of water from Lake Nicaragua is many times greater than the navigation of the canal would require, supposing four vessels to pass per hour.

SAN JUAN RIVER TO LAKE NICARAGUA.

Places.	Distance in geographical miles from San Juan del Norte upward.	Elevation in feet.
Port of San Juan del Norte to the Colorado River	20	25
From the Colorado to the Sarapiquí	29	92
San Carlos River	53½	48
Machuca, (head)	64½	86½
Castillo Viejo	80	108
Toro Rapido	90½	120
San Carlos	120	128

Lake Nicaragua. From San Carlos to Zapatera Island, seventy-six miles.

EXCAVATION THROUGH THE ISTHMUS.

From the mouth of the Ochomogo River (which empties into Lake Nicaragua) to the port of Escalante, a distance of twenty-four miles, greatest elevation 36 feet.

The entire length of the canal by this route is two hundred and twenty miles, one hundred and ninety-six of which are by water, and twenty-four through the excavation of the isthmus.

The line which I propose is more practicable than any other, for, even in the cut across the isthmus, there is a river, the Ochomogo, which has a good deal of water throughout the year, and the greatest elevation on the line is not above 36 feet, which is less than that of any other that has been proposed.

The port of Zapatera, in Lake Nicaragua, in the driest season, has from 15 to 16 feet of water, forming a magnificent harbor, protected from the north wind by Zapatera

Island, and that of Escalante, in the Pacific, for a distance of 50 varas from the coast, has not less than 45 or 46 feet of water at all times, being protected by very high ground.

I have here set forth as succinctly as possible the result of my long examination of this country.

I hope that experts in these matters and capitalists will give their attention to the plan; my desire that this channel for the commerce of the world may be opened through Nicaragua will then, in all probability, be realized.

PORT OF SAN JUAN DEL NORTE.

This port is at present but one square-mile in extent, and its greatest depth 2 feet. Its mouth, in the Atlantic Ocean, is closed in the summer and open in the winter, its depth being from 9 to 10 feet.

In order to make a regular port for the canal, it would be necessary to make an excavation which would cost not less than four millions of dollars.

The second section of the port of San Juan del Norte, which extends to the Colorado River, is simply a work of excavation.

At the end of this article I will place a statement of the estimated cost of the work as well as of the other works.

BANKS AND BOTTOM OF THE SAN JUAN RIVER.

From the confluence of the Sarapiquí River with the San Juan to the right bank of the river San Carlos the river has high banks and a sandy bottom, except in some places where there are eddies both large and small.

From the confluence of the river San Carlos with the San Juan, to the extremity of the Machuca Rapids, this distance presents very little difficulty, as the channel from 17 to 18 feet deep, with high banks. From the foot of the Machuca Rapids to the head of the rapids of Castillo Viejo, there are many difficulties, but the river is full of hard rocks. This will, therefore, be the most costly portion of the route via the San Juan River. From the head of the rapids of Castillo Viejo to the foot of the Toro Rapids there are no obstacles, the depth being sufficient and the banks high.

The Toro Rapids will require a great deal of labor, because they are half a mile in length, and here the dam is to be made for the purpose of raising Lake Nicaragua.

The head of the rapids require a dam constructed on a large scale, so as to raise not only the river above, but also Lake Nicaragua during prevalence of a drought.

That portion of the San Juan River which extends from the Toro Rapids to the port of San Carlos has low banks and a muddy bed.

Here I might conclude my description of the course of the San Juan River from the port of San Juan del Norte to the port of San Carlos, but it is proper to add a few explanations.

As I have stated, not only is the port of San Juan entirely artificial, but also the whole distance from this port up the San Juan River, even beyond the Colorado River or Punta Gigante. The first distance is twenty miles, and the second twenty-eight miles.

From these places to the entrance of the Sarapiquí River (right bank) the river is pretty wide, shallow, and has many sand-banks.

From the confluence of the Sarapiquí River with the San Juan to the San Carlos River the banks are low and the bottom sandy. There are, moreover, some very large eddies.

From the San Carlos (right bank) to the foot of the Machuca Rapids the river is a natural canal, from 16 to 18 feet deep throughout the year, with high banks.

From the foot of the Machuca Rapids to the head of the Castillo Rapids we have the most costly portion in the whole San Juan River, because the entire bed of the river is formed of hard rocks, it being necessary to cut the great Machuca Rapids, together with those of Las Vallas and del Mico, as far as the Great Castillo Rapids.

The cost of construction between the head of Castillo Rapids and the foot of the Toro Rapids will not be great, the bed of the river being deep and its banks high.

The length of the Toro Rapids is about one-half mile, the bed being formed of hard rocks. At the head of these rapids it will be necessary to construct a very large dam to raise the waters of Lake Nicaragua.

From Toro Rapids to the port of San Carlos the condition of the river is favorable, but it has low banks and a muddy bottom, and is only 18 feet deep.

From the port of San Carlos to Lake Nicaragua the depth of the river is only 5 feet, with a muddy bottom. It is five or six miles before we find sufficient water for any kind of steam or sail vessels.

Across Lake Nicaragua to the island of Zapatera, or rather to the port of Changuin Muerto, we have a line of from 40 to 120 feet in depth.

This is the end of the water line.

DIGGING OF THE CANAL THROUGH THE ISTHMUS.

I now proceed to treat of the most interesting point, which is the digging of the canal through the isthmus. This begins at the port of Zapatera or Charco Muerto, and terminates at the mouth of the Escalante River, in the Pacific.

The length of the land line is twenty-four miles; its greatest height is between Los Camarones and the Ochomogo River, 36 feet above the level of Lake Nicaragua during the rainy season. From Los Camarones a wide creek flows into the Escalante River, which latter empties into the Pacific.

The artificial canal from Lake Nicaragua to the Pacific will require an excavation of ten miles and a half, the greatest elevation being 36 feet.

THE PORT OF ESCALANTE,

on the coast, is an open sea, with a depth of from 45 to 46 feet for a distance of thirty varas from land, protected by high grounds to the north and northeast.

The southwest coast enters the sea to an extent of from 150 to 160 varas. On account of these natural circumstances, the construction of a good port for vessels entering the canal would be very easy.

Considering the situation of the Nicaragua Canal, it seems to me necessary to offer a few more explanations.

In my opinion large ports in the Atlantic and Pacific are unnecessary, because Lake Nicaragua is the largest port in the world.

From Punta Ometepe to the Maderas volcano the distance is six miles, the depth of the water being 72 feet. There are, moreover, the islands of Solentiname and Joho, which have ports suitable for any kind of vessels to the south.

Estimate of the cost of construction of the Nicaragua Canal, commencing at San Juan del Norte, via the river San Juan, through Lake Nicaragua, thence across the plain of Ochomogo to the point where the Escalante River flows into the Pacific, including excavation, locks, machinery, buildings, telegraphs, steamers, &c., &c., &c.

Places.	Distance in geographical miles.	Cost.
PORT AND RIVER SAN JUAN.		
Port of San Juan del Norte		\$4, 000, 000
From San Juan del Norte to Colorado River	20	10, 000, 000
From Colorado River to Sarapiquí River	29	2, 000, 000
From Sarapiquí River to San Carlos River	53½	8, 000, 000
From San Carlos River to Machuca Rapids	64½	4, 000, 000
From Machuca Rapids to Castillo Viejo Rapids	80	12, 000, 000
From Castillo Viejo Rapids to Toro Rapids	90½	4, 000, 000
From Toro Rapids to the port of San Carlos	120	6, 000, 000
LAKE NICARAGUA.		
Excavation of the port of San Carlos, in Lake Nicaragua, and of the port of the island of Zapatera	76	6, 600, 000
DIGGING THROUGH THE PLAIN OF OCHOMOGO.		
From the mouth of the river Ochomogo, in Lake Nicaragua, to the mouth of the river Escalante, in the Pacific	24	42, 000, 000
PORT OF ESCALANTE.		
For machinery of all kinds, telegraphs, steamers, lighters, buildings for laborers, &c.		10, 000, 000
Extra expenses		5, 000, 000
For engineer and superintendence		2, 000, 000
Sum total		115, 600, 000

In conclusion, I think it highly important to quote some of the observations of Colonel Childs, chief engineer of the American canal in the years 1850 and 1851. This engineer measured the line from San Juan del Norte, on the Atlantic, via the San Juan River, through Lake Nicaragua, and across the isthmus to the port of Brito. The greatest elevation of this portion of the isthmus is only 46 feet above the highest grade of the level of Lake Nicaragua. The surroundings are, generally speaking, level and uniform. Colonel Childs estimates the supply of water necessary for the navigation of

the canal, including evaporation, infiltration, and escape at the locks, at 800,000 cubic feet; and this eminent professor demonstrates, by his observations, that the discharge of water from Lake Nicaragua is 2,000,899 cubic feet per minute. These observations were made from the 23d of December, 1850, to the 27th of April, 1851. They were commenced when the lake was three and a half feet above its lowest level, or at about its average height, and they showed that, during that period of about one hundred and twenty-five days, the amount of water was 143,022,600,000 cubic feet in excess of what was required for the navigation of the canal, allowing the passage of three vessels per hour. The great increase of water caused by the autumn rains had diminished by about half when Colonel Childs made his observations. An increase of the lake is small when it does not exceed five or six, or perhaps seven feet. In the case of this inland sea the volume of water increases; from the lowest grade it may be at 400,000,000,000 of cubic feet, without counting the immense quantity which must be discharged from the lake when the increase takes place. The rain, which is the most abundant known in the world, having been repeatedly measured, was 94 inches per annum, or a volume of water 8 feet in depth on a surface four times as great as that of Lake Nicaragua.

Colonel Childs, with his officers, says: "We think ourselves justified in saying that there are no conditions on the continent of America so favorable as those which are offered by Nicaragua;" and this opinion is that of very many men distinguished in science, whose views are found stated in public documents; these drew our attention to this plan, and resulted in the formation of the American company for the construction of the canal, based on the report of the surveys for the canal in 1850 and 1851. This opinion has been before the public for nearly twenty years; it has not been contradicted, but has received the approbation of the engineers appointed by the British government to examine it, likewise that of a committee of topographical engineers of the United States of America, whose opinion was submitted, in 1852, to the President of said States. The committee, in making its report through Colonel Albert and Lieutenant Colonel Turnbull, its members, said, among other things: "We think that the plan proposed by Mr. Childs is practicable, since there is a large supply of water in the lake itself, without counting the other supplies which exist below its level, and that there is no other route so well provided with water; and that the outlay of money and labor estimated by Mr. Childs would be sufficient for the accomplishment of the work." The great interest which we have in the Nicaragua route has rendered plans for the discovery of new lines of communication between the two oceans so important to us, and they should receive our serious consideration; but we must be clear, as the result of twenty years' attention to this matter, that, so far as we judge, no passage has been discovered that was not known to the ancient Spaniards, and other exploring expeditions, whence it may be reasonably inferred that no other route will be discovered.

The country bordering on the entire route of the Nicaragua canal is healthy, and rendered comparatively temperate by the constant breezes; its beauty is proved, and nature has provided it with abundant means of subsistence in cattle and other products, mines, timber, &c.

It cannot be doubted that these must interest the commerce of the world, and particularly the Government of the United States, which has recently sent exploring expeditions to different parts of this continent, at great expense, but without having yet obtained any result. We earnestly hope that the Government and people of the United States of America will direct their attention to the sure and important route of an interoceanic canal through Nicaragua; if this has not yet been finally decided to be the only practicable one, it is undoubtedly because very powerful private interests have been arrayed against it. The Nicaragua route, however, has nature in its favor, which seems to have prepared for human intelligence the only way possible in order to unite the two largest bodies of water in the universe, and nature will triumph.

MAXIMILIAN SONNENSTERN,

Civil Engineer.

MANAGUA, June 3, 1871.

No. 304.

Mr. Riotte to Mr. Fish.

No. 83.]

UNITED STATES LEGATION,

Leon, July 3, 1871. (Received July 31.

SIR: I have the honor of submitting to you inclosed copies of two notes exchanged between the Nicaraguan government and myself upon certain orders issued by President Quadra to the military governor of

this city, to join in the celebration of the 4th July. I was the more agreeably surprised by the president's attention, as I had left him but the day previous without the least intimation on his part upon the subject, and as I could not help contrasting his frank and cordial course with the ungracious and sullen one of his predecessor on the same occasion last year.

During my recent stay at Managua, the friendly relations between Mr. Quadra and myself, so happily inaugurated at the time of his taking possession of the presidential chair, as reported to you in my dispatch No. 71, of March 8 last, and which, since then, had been cultivated by a frequent exchange of private letters upon topics of vital importance to the republic, matured into a genuine friendship, so that I cheerfully complied with his request, after finishing the business that called me there, to remain a day longer, and to give him my views on several highly interesting measures and bills the administration is preparing.

* * * * *

I found during my recent intercourse with President Quadra, to my great satisfaction, that the characterization I ventured of him prior is perfectly correct, except, perhaps, that he is possessed of a higher degree of "pluck" and of more liberal and enlarged ideas than I gave him credit for then. As the measure of his administration he seems to consider the securing of the interoceanic canal across the republic, and by American enterprise. Being the only true republican I have as yet been able to unearth in this "republic," he is a sincere and enlightened admirer and friend of our country—wide awake as to the future of the North American continent down to the Isthmus of Panama, and therefore, from the very best reasons, anxious that the canal, upon which he looks as the sole panacea for all the evils of his country, should be carried out and held by the people of the United States.

I have the honor to be, sir, very respectfully, your obedient servant,
C. N. RIOTTE.

[Translation.]

His excellency the President has yesterday, through the proper minister, dispatched his orders to the military governor of that department that the ensuing 4th of July, the anniversary of the Independence of the United States of North America, be celebrated with all possible demonstrations of the enthusiasm wherewith the government and people of Nicaragua look upon that happy event.

His excellency, moreover, trusting that your excellency will condescend to accept the sincere though feeble demonstration of the esteem and high consideration he entertains for your excellency, has ordered me to inform your excellency of those orders by communicating to you a certified copy thereof, which I have the honor to inclose.

[Translation.]

This day I am telling the military governor of Leon this: The ensuing 4th of July is the anniversary of the Independence of the United States of North America; of that glorious event which forms an epoch in the history of the onward march of democracy on the road of both social and political improvements, and which, as its peculiar consequence, effected the emancipation of the Spanish-American republics on this continent. Thus, Nicaragua, one of them, ought not to remain indifferent at such welcome memento, and ought, on her part, join in solemnizing that august incident. These considerations, together with the ties now binding the government of the country with that of the model republic, prompted his excellency the President to direct that in your city, the residence of the very worthy minister plenipotentiary of that republic, on said anniversary shall be celebrated by saluting the North American flag, at the time of its raising over the house of said minister, with a triple salute; by hoisting that of

Nicaragua to full mast in the principal quarters; and that you, accompanied by the military body, pay a visit to the honorable representative of the United States of North America; all that, to demonstrate the esteem, consideration, and respect wherewith the nation honors the great people which, on the soil of the New World, planted popular and representative political institutions.

I tell you this, by supreme order, for your intelligence and observance.

[Inclosure 2.]

UNITED STATES LEGATION IN NICARAGUA,

Leon, June 30, 1871.

Hon. DON FRANCISCO BALLADARES, &c., &c.

I have been honored with the receipt of the very gracious note of the 28th instant with inclosure, informing me of the orders issued by his excellency the President of the republic, to the military governor of this department, to participate in the ensuing celebration of the anniversary of the glorious national birthday of the great American commonwealth. I beg to assure you, Mr. Minister, and through your friendly mediation his excellency the distinguished chief magistrate of the republic, that I shall most cordially accept those spontaneous demonstrations of good will and sympathy for my country by the government and authorities of this our sister nation, and more so, as I am firmly persuaded that they are imbued with a spirit of genuine and unreserved sincerity. I shall be most happy to inform my Government of the sympathetic acts of yours, and of the elevated and truly American ideas expressed by you on this occasion, equally honorable to the giver and to the recipient.

I don't know whether it is proper, in connection with so grand a subject, to speak of me personally, yet, since his excellency the President, and you, Mr. Minister, have so kindly mentioned me in a manner more flattering than deserved, it may not appear presumptuous in me if I beg you to accept for yourself, and also to convey to his excellency, the expression of my sincere gratitude.

I have the honor, &c., &c.,

C. N. RIOTTE

No. 305.

Mr. Riotte to Mr. Fish.

[Extract.]

No. 85.]

UNITED STATES LEGATION,

Leon, August 16, 1871. (Received September 18.)

SIR: * * * * *

I had the satisfaction of making President Granados' personal acquaintance, and conversing with him at a private entertainment given to him at Antigua, and, two days after, at his residence. On the first occasion, during the two hours of my attendance, he spoke with me almost exclusively. Nothing could surpass the fine tact, and, at the same time, exquisite cordiality wherewith he received and treated me. He quite unreservedly detailed his political plans, attentively listened to my observations, and candidly asked my opinion on several subjects. His intention is, by virtue of the dictatorial powers vested in him, and previous to convening a constitutional assembly, "to lay by several laws the foundations for a truly constituent government, so broad and deep that they could not be eradicated any more." Among these laws, quite a number of which he enumerated, he accentuated as of special importance the electoral one. He explained that the Indians composing almost nine-tenths of the entire population, and in every sense far below even our southern "field-hands," and more in the grasp of the clergy than our slaves ever were in that of their masters, furnished the large majority of representatives; of course, priests or their

bondsmen, while the intelligent classes and property-holders were in a small minority. The late government ruled by that majority. This state of affairs President Granados proposes to change principally by lessening the number of representatives from the Indian districts, and increasing that of the educated classes and property-owners. He will not—he said with emphasis—soon call a constituent assembly, that being by the plebiscite, (*i. e.* a declaration of the army, issued at Tatzasea, and afterwards confirmed by manifests of the various municipalities,) altogether left to him to do “cuando las circunstancias lo permitan,” (when circumstances will permit;) he had not the least apprehension of a reactionary movement from the partisans of the old government, but some of the extremists, whose views and words were now violent in proportion to the long oppression they had been subject to.

President Granados, I am happy to say, is by far the best and most universally instructed person I have met with in Central America. He passed his youth in a Philadelphia college, (a very interesting sketch of John Quincy Adams's election was one of the features of his communications;) afterwards resided for years in Europe and Mexico, and for twenty years was the only member in the Guatemala congress that dared to oppose Carrera's arbitrary rule, which secured him lodgings in Fort San Felipe. He is well versed both in the literature and history of the United States and of the principal European countries. His views, though moderate, are liberal and decided. He sees very plainly that the great incubus of his country is the clergy, and the Jesuits in particular, and he will not spare them if occasion offers, yet he will be very cautious in his course toward them.

The unexpected and complete triumph of the liberal cause in Central America has filled the hearts of all thinking people with a full sense of their deplorable situation and an ardent desire of establishing *now* some sort of a union among the five republics. President Medina, on the part of Honduras, moved first in the matter, and it is now proposed to send envoys to the city of Salvador to confer upon it. Several republics have already dispatched theirs, and there is no doubt that the others will follow in due time. Some days ago the above-mentioned minister Uriarte, who is in intimate relations with Presidents Medina, Quadra, and Granados, in passing through this city on his way to Honduras, called on me, and in the course of conversation, wherein he communicated to me much valuable information on Central American affairs and leaders, mentioned that, in order to prevent jealousies among the envoys on the presidency of the conference, and also to take advantage of his experience, he would propose that the conference be presided over by one of the United States ministers in Central America, and asked whether I would be disposed to act in that capacity if the offer was made to me. I replied that my resolution would depend on the conditions under which the offer would be made, and upon the consent of my Government.

The ideas on the ways and means to establish, as well as on the form of the union, are, of course, as yet very divergent.

The Honduras press advocates a perfect and full union between that State and Salvador, as a point of crystallization for the other three republics. Mr. Uriarte, in a pamphlet, considers a federation, as proven fifty years ago, altogether out of question, and proposes instead:

1. A rather vague “true and unalterable fraternity between the five republics,” together with the more tangible form of a defensive and offensive alliance against foreign aggression.

2. A formal pact in no case and under no pretext whatever to wage

war against each other, with regulations how to settle all differences between one or more of the republics.

3. As a consequence hereof the establishing of a Central American congress or Diet, with power to act as arbitrator.

4. A pledge by all governments to make the decisions of the Diet respected and executed with all means, (con todos sus recursos asi morales como materiales.)

5. Free trade between the republics for all natural and industrial productions.

6. Unification of university degrees and military grades, of coins, weights, and measures.

7. Extradition of criminals, &c., &c.

It cannot be denied that here the germs are presented for a practical and working union and a peaceable and prosperous future of these countries, but I fear there is too much of good things asked for at once.

The question will be whether there will be found wisdom enough in the councils at the outset to make the sacrifices in the independence and sovereignty of the several republics as slight and imperceptible, as reconcilable with the end to be attained, and, on the other hand, whether there will be sufficient forbearance and good sense among the state governments and peoples to honestly submit to those sacrifices and their inevitable consequences.

I am not over-sanguine on either point, but I am persuaded that proposition No. 5, as an initiatory measure, could be carried out, and would, in the course of a few years, form a solid basis for carefully considered further steps in the direction of unification. As authority for my belief I point to the German Zollverein and its result.

*Leon, August 20, 1871. While copying this dispatch I received the Salvador "Boletin Oficial" of the 3d instant, which contains some important facts relative to the union movement, and which I take the liberty of communicating to you, since at present there is no diplomatic or consular representative of the United States in Salvador.

On July 29, Mr. Francisco Alvarado, envoy extraordinary of Honduras to Salvador, for the purpose of submitting to that government the proposition to consolidate the two states into one, was received by President Gonzales. The speeches of the occasion are too lengthy for translation. Mr. Alvarado's language is very plain and to the point; that of Mr. Gonzales a little more guarded, yet favorable to the plan.

Two days after, Mr. Alvarado delivered a very exhaustive note to the Salvador government on the project, wherein he stated the propositions of his government in detail, as you will perceive from the inclosure.

I have, &c.,

C. N. RIOTTE.

[Translation.]

In that conviction the Honduras government proposes to that of Salvador :

First. To form of the two states one sole republic, with the capital at La Union or Amapala.

Second. As an indispensable consequence, the formation of one national hacienda (treasury,) composed of the revenues of both republics; commonness of active and passive debts; ownership of the Honduras interoceanic railroad; of all others that might be built in either country; of their high and tram-roads; of their ports, warehouses, machines, &c., on either ocean. Centralization of armaments and war materials of both states under authority of the general government to be established.

Third. Convocation of a constituent assembly, to be composed of an equal number of representatives from each state, to frame the constitution of the republic upon the basis of true Americanism.

Fourth. Solemn compromise by the two governments to publish and make that constitution effective immediately upon its emanation, and, in accordance with an electoral law, also to be framed by the same assembly in the name of the nation, to create the general authorities.

Fifth. As soon as the general power be organized, all public powers in both states are to disappear absolutely.

I beg the citizen President of the republic to deign to bestow his high consideration to the bases presented in behalf of the government of Honduras; and in case it was not within his attributes to concede them, to submit them to the national congress, which, fortunately, is assembled, to establish the future of the country.

FRANCISCO ALVARADO.

No. 306.

Mr. Fish to Mr. Riote.

No. 61.]

DEPARTMENT OF STATE,
Washington, October 7, 1871.

SIR: Your dispatch No. 85, of the 16th of August last, has been received. The account which it gives of Central American politics is full and interesting. The reunion of the five states in a confederation likely to be more lasting than the former one has always been regarded by us as desirable, not only for the internal prosperity of that region, but for convenience and efficiency in the management of its foreign affairs. The dissolution of the first confederacy was always regarded by us as adverse to the well-being of the respective members and of their inhabitants. Possibly it might have been prevented, if the United States had had at the time a qualified diplomatic agent in that country. Soon after the dissolution took place, the Mosquito question obtained a prominence in the relations of Nicaragua, especially with other powers, which might have been avoided, if the confederation had continued. That question gave us much trouble for several years; and though ultimately settled definitively, as was supposed, other questions resulting from it occasionally threaten inconvenience.

It may be regarded as premature to express an opinion as to the expediency of your accepting the presidency of a congress for the restoration of the Union. If the desire for a new confederacy should become general and unmistakable, and the meeting of a full representation of agents for the purpose, certain instructions upon the subject will then be given to you, if the original invitation should be still in force, or should be repeated.

I am, &c.,

HAMILTON FISH.

No. 307.

Mr. Fish to Mr. Riote.

No. 62.]

DEPARTMENT OF STATE,
Washington, October 7, 1871.

SIR: Your dispatch No. 88, of the 3d ultimo, has been received. The Department learns from it, with regret, of the determination of the President of Nicaragua to insist upon a stipulation providing for injuries claimed by citizens of that republic to have been sustained by the burning of Granada and the bombardment of Greytown, in any conven-

tion upon the subject of claims. As it must be known that no such stipulation is admissible on our part, the decision of that government may be regarded as a denial of justice to such of our citizens as have suffered from acts of authorities of Nicaragua. No officer of the United States has, it is believed, been charged with participation in the burning of Granada, and we are not aware that it is pretended that that act was incited or has ever been sanctioned by this Government. If persons claiming to be citizens of the United States were implicated, they were liable to punishment according to the laws of Nicaragua, but it seems frivolous to assert that this government is in any way accountable for their deeds.

This government has made no reparation for the loss of property by the bombardment of Greytown. Citizens of the United States were probably proprietors there of far greater values than citizens of Nicaragua. Subjects of several principal European governments were also losers by the bombardment to large amounts. Application in their behalf for indemnification have uniformly been refused. The bombardment was justifiable and necessary. The persons claiming to be in authority there are alone to blame for it, and the sufferers should only deprecate their misfortune in having confided the safety of their property to such characters.

You intimate that the government of Nicaragua purposes on these points to appeal directly to this government. Such an appeal, however, while the United States have a minister accredited to them, would be irregular and even disrespectful. It could not be expected to change the result, and its only apparent object would be further to protract a negotiation which has already been kept too long in suspense for the good of the relations between the two republics.

I am, &c.,

HAMILTON FISH.

P. S.—You may read this instruction to the minister for foreign affairs of Nicaragua, and, if requested, leave a copy with him.

SALVADOR.

No. 308.

Mr. Torbert to Mr. Fish.

No. 34.]

UNITED STATES LEGATION,
San Salvador, February 20, 1871. (Received March 16.)

SIR: In view of the existing state of affairs between this republic and that of Honduras, I have this day addressed to the minister of foreign affairs for this government a dispatch in relation to the United States guaranteeing the strict neutrality of the Honduras interoceanic railroad.

A copy of said dispatch (marked A) is herewith inclosed; the inclosures (marked B and C) mentioned in said dispatch are the same as sent to the Department with legation dispatch No. 32, of February 19.

I am, &c.,

ALFRED T. A. TORBERT.

A.

UNITED STATES LEGATION,
San Salvador, February 20, 1871.

SIR: In view of the present state of affairs between this republic and that of Honduras, it is my duty to call the attention of this government to the following extract of a treaty celebrated between the United States of America and the republic of Honduras, July 4, 1864, in relation to the Honduras Inter-oceanic Railroad Company, viz:

"2. In consideration of these concessions, in order to secure the construction and permanence of the route or road herein contemplated, and also to secure, for the benefit of mankind, the uninterrupted advantages of such communication from sea to sea, the United States recognizes the rights of sovereignty and property of Honduras in and over the line of said road, and for the same reason guarantees positively and efficaciously the entire neutrality of the same," &c., &c.

In consideration of the very positive language and obligations of the above, I must ask that in case of an invasion of Honduras by Salvador, that such orders be given and such a policy pursued as will not involve this government in any difficulty with the United States.

I inclose a copy of my dispatch (marked C) to the minister of foreign relations in Honduras on the same subject, also a copy of a dispatch (marked B) sent by said minister to the United States minister resident in Honduras.

With much pleasure I reiterate to the honorable Sr. Doctor Arbizu the assurances of my most distinguished consideration.

ALFRED T. A. TORBERT,
United States Minister.

His Excellency Sr. Dr. DON GREGORIO ARBIZU,
Minister of Foreign Relations for Salvador.

No. 309.

Mr. Torbert to Mr. Fish.

No. 35.]

UNITED STATES LEGATION,
San Salvador, February 23, 1871. (Received April 1.)

SIR: I have the honor to inclose herewith a translation copy (marked 1) of a dispatch just received from the minister of foreign relations for Salvador, in answer to mine, (marked A,) forwarded with legation dispatch No. 34, in regard to the United States having guaranteed the neutrality of the Honduras inter-oceanic railway.

In this connection it is not out of place to say that I am pretty well assured that both Salvador and Guatemala do not favor the construction of said railroad, as they fear an increase of emigration to Central America, and for this reason, under the present state of affairs, I fear that the work may be interfered with, notwithstanding the guaranteed neutrality of said road by the United States and England, if neither power has a man-of-war here to enforce said guarantee.

Very respectfully, your obedient servant,

ALFRED T. A. TORBERT.

No. 1.

[Translation.]

DEPARTMENT OF FOREIGN RELATIONS OF SALVADOR,
San Salvador, February 22, 1871.

SIR: I have communicated to his excellency the President of the republic the contents of your Excellency's dispatch of the 20th instant, accompanying copies of the note addressed by your legation to the department of foreign relations of the supreme gov-

ernment of Honduras, and of the one from the latter to the honorable minister resident of the United States in that republic, with reference to the neutrality of the Honduras railroad route, stipulated by the United States in the fourteenth article of the treaty entered into between that Government and that of Honduras on the 4th of July, 1854.

Your excellency, in view of the positive terms in which the said article is worded, calls upon this government to adopt, in the event of an invasion of the territory of Honduras by Salvador military forces, such measures as shall avoid any difficulty that, in consequence of the neutrality referred to, might occur between your Excellency's government and that of this republic.

His Excellency the President, being duly advised, has directed me to reply thereto, assuring your Excellency, on his part, that should the extreme case arrive of having to invade the territory of Honduras, the requisite orders will be issued to the forces of this republic to respect the neutrality of the railroad route, provided there is a due reciprocity on the part of the government of Honduras, the latter not to make use of any portion of said territory for military operations against this government.

This is the answer I have to return to your Excellency's note above mentioned, it being at the same time very satisfactory to me to avail myself of this occasion to subscribe myself as your very attentive and obedient servant.

In the absence of the minister of foreign relations, the chief of the foreign bureau,
SALVADOR GALLEGOS.

His Excellency General ALFRED T. A. TORBERT,
Minister Resident of the United States, &c., &c., &c.

No. 310.

Mr. Torbert to Mr. Fish.

No. 36.]

UNITED STATES LEGATION,
San Salvador, March 6, 1871. (Received April 1.)

SIR: I have the honor to inclose herewith translation copies (Nos. 1, 2, and 3) of communications just received from the minister of foreign affairs of Honduras.

It seems by No. 1 that the fears expressed in my State Department dispatch No. 35 have been already realized.

Also inclosed please find my dispatch (marked 4) to this government in regard to the attack on the railroad guards.

As yet there has been no formal declaration of war, although this government is ready and, I believe, disposed to invade Honduras, and only awaits the result of a conference of commissioners from the different Central American States, which meets at Amapala in a few days to try and arrange matters.

I inclose two newspapers of Honduras and one of Salvador, treating of the questions in dispute between the two states.

I am, &c.,

ALFRED T. A. TORBERT.

No. 1.

[Translation.]

REPUBLIC OF HONDURAS,
DEPARTMENT OF FOREIGN RELATIONS,
Comayagua, February 25, 1871.

SIR: On the 21st instant, between the hours of 10 and 11 p. m., a Salvadorean force, commanded by Don Domingo Vasquez, has crossed the boundary line of the two republics, surprised and attacked, at a town of Honduras named Goascoran, a detachment of thirty men that were employed in guarding the works of the railway, and did not therefore belong to the regular forces of this government.

This manifest violation of the Honduras soil and the sudden and unexpected surprise of a small police force, without a declaration of war being previously made, but on the

contrary, all hostilities being prohibited inasmuch as both Salvador and Honduras had accepted the mediations of Nicaragua and Guatemala to bring about a friendly settlement, clearly prove that Honduras is not the aggressor.

And when this government was relying on the assurance given me by you in the note of the 2d instant, "that the officers in command of the forces that are being organized in this republic have very strict orders not to commit nor permit to be committed any hostile act against that republic, and that my government has perfect confidence in the exact fulfillment of those orders," the territory of Honduras is invaded and the invading force marches into the heart of the department of Choluteca.

The whole world will see, Mr. Minister, how well founded were the fears of aggression felt and expressed by the government of Honduras, as arising from the want of good faith on the part of the government of Salvador in the fulfillment of its obligations. My government thereupon reiterates its protest, and throws upon the government of Salvador all the responsibility for the consequences that may occur from the unjust war brought upon us by the latter.

After which, I have to declare to you, for the information of that supreme government, that the neutrality of the railroad route being guaranteed by the great powers, the United States of the North and Great Britain, not only against any interruption of the works, but also to secure the engineers and laborers, and to preserve all the interests applied to that undertaking, it is not allowed to the military forces of Salvador to trespass upon nor occupy any point on the line of the said railroad, from the town of Amapala to that of Puerto Cortes, without your government incurring the responsibility of the dispersion of the workmen and the consequent stoppage of the works, of the damages and injuries accruing to the engineers and their agents, and the detriments and losses that the undertaking may sustain.

And to avoid all pretexts for attack, occupation, or trespass of any nature upon any point of the railroad line, I have likewise to declare to you that requisite orders are given to the effect that the regular garrisons and the military detachments employed in guarding the works of the railroad from Amapala to Puerto Cortes be reduced to the ordinary number, and be solely charged with the duty of preserving order in the interior; and moreover, that the government of Honduras will not make use, as a base for military operations to repel the unjust aggression of the Salvador government, of any of the points on the line, and much less of those where the works are organized.

All of which I say to you by order of his Excellency the President of Honduras, for the information of his Excellency the President of Salvador, and have the honor of tendering to you my respects and considerations.

FRANCISCO ALVARADO.

The Hon. MINISTER OF FOREIGN RELATIONS
Of the Government of the Republic of Salvador.

A true copy.

No. 2.

[Translation.]

REPUBLIC OF HONDURAS, DEPARTMENT OF FOREIGN RELATIONS,
Comayagua, February 25, 1871.

SIR: It is highly honorable, as well as satisfactory, to the undersigned minister of foreign relations of Honduras to address the very honorable minister resident of the United States at Salvador, for the purpose of tendering the thanks of his government for the noble and generous offer that he had the kindness to make in his esteemed note, dated the 18th instant, of his good offices whenever the authorities of Honduras may be in need of them, and of the laudable wishes he entertains for the prosperity and happiness of this country.

The undersigned begs leave to state to the very Honorable General Torbert that the government of Honduras accepts with pleasure his noble offer, and will make use of it upon all occasions.

The undersigned hopes that the very Honorable General Torbert will, in his turn, accept the tender of services which, in the name of the Honduras government, is herein made to him, as the worthy representative of the great American nation with whose Government that of Honduras is bound by the strongest sympathies of a most sincere friendship.

The undersigned avails himself of this occasion for tendering to the honorable minister resident of the United States at Salvador his respects and high considerations.

FRANCISCO ALVARADO.

The Hon. ALFRED T. A. TORBERT,
Minister Resident of the United States at Salvador.

No 3.

[Translation.]

REPUBLIC OF HONDURAS, DEPARTMENT OF FOREIGN RELATIONS,
Comayagua, February 25, 1871.

SIR: The undersigned, minister of foreign relations of the government of Honduras, has the honor to acknowledge the reception of the dispatch which the honorable minister resident of the United States at Salvador was pleased to address him on the 18th instant, and at the same time takes the liberty to accompany herewith an authenticated copy of the communication written by him on this day to the department of foreign relations of that republic, making known to it that the military forces of Salvador are not to trespass upon, occupy, or attack any portion of the railroad line from Amapala to Puerto Cortes, the neutrality of said route being guaranteed by the great powers, the United States of North America, and Great Britain, and declaring that Honduras will not make use of any point thereof as a base for military operations.

The undersigned deems it expedient to call the Hon. Mr. Torbert's attention to the sudden aggression by the Salvadorean forces who have invaded the Honduras territory, when this government expected that no act of hostility would be committed, as there had been no declaration of war, and the mediation of Nicaragua and Guatemala had been accepted.

It is possible that this government may have to call upon all the citizens of Honduras to take up arms for the defense of their country just unjustly attacked, and in that event be obliged to use the laborers employed upon the railway. All detriments that such an extreme measure may cause to the undertaking aforesaid must fall upon the Salvadorean government, who is the party responsible therefor, having undertaken, without the formalities prescribed by the international law positive of these states, an unjustifiable war against Honduras.

The undersigned communicates the above facts to the honorable minister resident of the United States at Salvador for his information, by order of his excellency the President of this republic, and in doing so has the honor of again tendering to him his respects and high considerations.

FRANCISCO ALVARADO.

Hon. General ALFRED T. A. TORBERT,
Minister Resident of the United States at Salvador.

No. 4.

UNITED STATES LEGATION,
San Salvador, March 5, 1871.

SIR: I am in receipt of a communication dated February 25, from the minister of foreign relations for Honduras, complaining that the government of Salvador has not respected the neutrality of the railroad now under construction in that state, inasmuch as Don Domingo Varquez, in command of a Salvadorean force, on the 21st of February invaded Honduras, attacked and drove from the town of Goascoran, on the line of said railroad, a picket of thirty men who were stationed there solely to protect the engineers and workmen of said road from molestation in Honduras, and not to guard them against raids from Salvador, and that said picket was not a part of the regular forces of Honduras.

In view of these statements of the minister of Honduras and your letter of February 22 to me on the subject of the neutrality of the railroad, I hope you will favor me with an explanation of the attack of Sr. Varquez, and I am led to believe, from a conversation to-day with a member of the Salvadorean cabinet, that the responsibility of the first violation of the neutrality of the line of the said railroad will be thrown upon Honduras by the invasion of Salvador before the 20th of February by General Ochoa from Goascoran, on the line of said railroad.

But for the better information of my government it is necessary to have the explanation in writing.

Sincerely hoping that all difficulties may be avoided in regard to this neutrality, and ever praying for the peace and prosperity of Salvador, I remain, &c.,

ALFRED T. A. TORBERT.

His Excellency Sr. Dr. DON GREGORIO ARBIZU,
Minister of Foreign Relations, &c., &c.

No. 311.

Mr. Torbert to Mr. Fish.

No. 37.]

UNITED STATES LEGATION,
San Salvador, March 7, 1871. (Received April 1.)

SIR: For the information of the Department, I have the honor to inclose herewith translation copies (marked 1 and 2) of a dispatch received from this government, accompanied with a letter addressed by Thomas Martinez, general-in-chief of the expeditionary army of Salvador, to his government, complaining of the action of the state of Honduras in relation to the guaranteed neutrality of the line of the railroad in Honduras by the United States. Inclosure No. 4 is my reply to the above communication.

I am, &c.,

ALFRED T. A. TORBERT.

No. 1.

[Translation.]

DEPARTMENT OF FOREIGN RELATIONS OF SALVADOR,
San Salvador, March 6, 1871.

SIR: Your excellency will become informed by the copy of a communication from the general-in-chief of the expeditionary army of Salvador, which I have the honor to accompany herewith, of the acts of manifest hostility that have been commenced at the port of Amapala, notwithstanding the neutrality of said port, and of all the line of the Honduras Railway stipulated in the fourteenth article of the treaty entered into between the United States and Honduras on the 4th of July, 1864.

As I stated to your excellency in my note of the 22d ultimo, my government at once and cheerfully accepts and will respect the neutrality of that territory on condition that the government of Honduras extends a due reciprocity, not making use of any portion of the railroad route for military operations against this republic. Otherwise, the government of Salvador, which cannot forego any means of defense to preserve its rights intact, would be compelled to repulse and fight the enemy wherever he may be, even though he may be found on the territory guaranteed as neutral, which, being under the control of the hostile government, ought not to be looked upon as such.

To avoid, then, any ulterior reclamations that might come from your excellency's government, the President has directed me to urge upon you, in the name of this government, to employ, if you deem it proper, your offices with the government of Honduras, and obtain from its part an equal effect for the stipulated neutrality, without which this would degenerate into an odious privilege that Salvador neither could nor should recognize.

My government entertains the assurance that your excellency, in view of the foregoing observations, will render due justice to it, inasmuch as it has paid all deference to your excellency's mediation; and with the request that you will be pleased to make known to me the result of your efforts to this effect, I take pleasure in renewing to the honorable minister resident the assurances of my most respectful consideration.

In the absence of the minister of foreign relations, the chief of the foreign bureau.
SALVADOR GALLEGOS.

His Excellency General ALFRED T. A. TORBERT,
Minister Resident of the United States.

No. 2.

General Martinez to the Minister of Foreign Affairs of Salvador.

[Translation.]

SIR: The government of Honduras has declared neutral the port of Amapala, and the same has been perhaps done by the powers that guarantee the railroad of that republic; but, sir, it is well known that the government of Honduras and its employes respect neither treaties nor obligations, nor the law of nations; of this they have

given many proofs, and are now giving still one more, which is that of sending out of the port of Amapala armed vessels to capture all vessels coming from the minor ports of Nicaragua to La Union, a port of this republic. Out of one of these captured vessels they have taken the lieutenant, Dr. Jose Maria Ballecillos, who was bound to this republic and in my service. Ballecillos is there treated as a prisoner of war, and those who had charge of the vessel were also very ill-treated.

I beg of you, Mr. Minister, to lay this before his excellency the President, that he may decide what course the officers in command of the expeditionary forces going to Honduras are to pursue, because it is a very serious inconvenience to the Salvadoran forces that those of Honduras be permitted to do all the harm they can, at the same time that the Salvadoreans observe a strict neutrality.

Be pleased, Mr. Minister, to advise me of the President's resolution, and to accept the considerations, &c., &c.

TOMAS MARTINEZ

The Hon. MINISTER OF FOREIGN RELATIONS.

No. 3.

UNITED STATES LEGATION,
San Salvador, March 6, 1871.

SIR: I have the honor to acknowledge the receipt on the 5th instant of your excellency's communication dated the 6th, in regard to the neutrality of the Honduras Railroad, and inclosing a copy of a letter dated the 4th instant, addressed by Thomas Martinez, general-in-chief of the expeditionary army of Salvador, to his government on the same subject.

In your dispatch you remark, viz: "To avoid, then, any ulterior reclamations that might come from your government, the President has directed me to urge upon you the name of this government to employ, if you deem it proper, your good offices with the government of Honduras, and obtain from its part an equal effect for the stipulated neutrality," &c. To this end, if you will refer to my dispatch of February 20, and to the accompanying letter (marked C) to the minister of foreign relations for Honduras you will see that I have anticipated the desires of his excellency the President. Moreover, I am pleased to inform you that I am in receipt of a copy of a letter dated February 25 from the minister of Honduras, answering my requests, and he informs me that to have been furnished with the same dispatch. In said dispatch occurs the following, viz: "And to avoid all pretext for attack, occupation, or trespass of any nature on any point of the railroad line, I have to declare to you that requisite orders are given to the effect that the regular garrisons and the military detachments employed in guarding the works of the railroad from Amapala to Puerto Cortes be reduced to an ordinary number, and be solely charged with the duty of preserving order in the interior and moreover that the government of Honduras will not make use of, as a base for military operations to repel the unjust aggressions of the Salvador government, any of the points on the line, and much less of those where the works are organized."

As the matter stands, if both Salvador and Honduras adhere faithfully to their promises there will be no trouble in regard to the neutrality of said railroad line.

In regard to the communication of General Martinez he says, viz: "The government of Honduras has declared neutral the port of Amapala, and the same being performed by the powers that guarantee the railroad of that republic;" and I would say that the United States recognizes the rights of sovereignty and property of Honduras in and over the line of the railroad from Amapala to Puerto Cortes, and guarantees the entire neutrality of the same for certain purposes and on certain conditions. As for this guarantee Honduras has agreed, at my suggestion, that the port of Amapala and the line of the railroad shall sustain a neutral attitude in case of war between that state and Salvador.

It is not my place to comment on the very sweeping denunciation of General Martinez on the faithlessness of Honduras in fulfilling her treaty and international obligations; but the case as he represents it, viz: "Honduras sending out of the port of Amapala armed vessels to capture all vessels coming from the minor ports of Nicaragua to La Union in Salvador," seems to me to be a question to be settled between Honduras and Nicaragua. And as to the particular case of Lieutenant Ballecillos referred to, I cannot give a positive opinion without hearing from the government of Honduras. Moreover the general states that the lieutenant was on his way to this republic and in my service and not that of Salvador. At present, however, it appears to me to have been an unlawful act, and I will ask an explanation and request that he be released. In this connection it is not out of place to remark that it appears that Honduras has cut all treaty relations and communications with Salvador, whether wisely or not, as she is the only judge, and if she will not allow any communication through her waters to Salvador, international right and usage will give her complete control of her maritime territory and a marine league along all the coasts of the state.

Within these limits her rights of property and territorial jurisdiction are absolute and exclude those of any other nation. Nor are these rights abridged by the United States guaranteeing the neutrality of a line of railroad from ocean to ocean, but she still retains the right to guard her coast to prevent intrusions, to warn off, &c. ; but, without a declaration of war, I do not believe she is justified in making arrests like the case referred to. And in case of war with Salvador, Honduras should not, (in view of the said neutrality,) and she says she will not, use this port, nor any part of the line of the railroad to make aggressions on the territory of Salvador.

I am, &c.,

ALFRED T. A. TORBERT.

Sr. Dr. DON GREGORIO ARBIZU,
Minister of Foreign Relations for Salvador.

No. 312.

Mr. Fish to Mr. Torbert.

No. 25.]

DEPARTMENT OF STATE.

Washington, March 20, 1871.

SIR: Your dispatches, Nos. 32 and 34, of the 19th and 20th ultimo respectively, have been received. In reply to your inquiry as to the extent of the obligation assumed by this Government in the fourteenth article of its treaty with Honduras of 1864, relative to the guarantee of a railway across that republic, I have to state that it has always been understood here that that obligation does not attach until the completion of that work. The guarantee was given as a consideration for certain advantages which, as they cannot be enjoyed until the road shall have been finished, this Government cannot until then properly be called upon to repel an invasion of the route from abroad.

I am, &c.,

HAMILTON FISH.

No. 313.

Mr. Torbert to Mr. Fish.

No. 44.]

UNITED STATES LEGATION,

San Salvador, April 7, 1871. (Received May 2.)

SIR: I have the honor to inclose herewith a translation copy (marked A) of a note received from the minister of foreign affairs of Honduras, in regard to the Honduras Railroad. I furnished a copy of said note to the government of Salvador, and the translation copy (marked B) herewith is their answer to the same.

I am, &c.,

ALFRED T. A. TORBERT.

A.

Sr. Don Francisco Alvarado to Mr. A. T. A. Torbert.

[Translation.]

REPUBLIC OF HONDURAS, DEPARTMENT OF FOREIGN AFFAIRS,
Comayagua, March 24, 1871.

SIR: The government has learned to-day that a Salvadorean division, commanded by General Miranda, invaded the territory of this state on the 22d instant by the place called Goascoran, and that a part of the force had occupied the said place and the other had proceeded toward the town of Langue.

As it is quite possible that the expedition may come upon this capital, which is one of the most important on the railroad route, the superintending engineers of the works having their offices therein, and as the government, by reason of its being a neutral point, could not and should not make use of it as a "point d'appui" for military operations, I hereby declare to you, in the name of my government, that in the event of the Salvador forces making the attempt to occupy this capital, all the inhabitants, both permanent and transient, together with their interests, will remain under the protection of the great powers who have guaranteed the neutrality of the Honduras Railroad line, one of which powers is the great American republic that you honorably represent in that country.

The government therefore trusts that you will be pleased to adopt the necessary measures to prevent any attack against this city and the other towns on the railroad route, inasmuch as there is no reason whatever for their being occupied or molested by the enemies of Honduras. By order of the government I write you this communication, hoping that you will furnish me with a timely answer thereto, and accept my respects and consideration.

FRANCISCO ALVARADO.

B.

Salvador Gallegos to Mr. A. T. A. Torbert.

[Translation.]

DEPARTMENT OF FOREIGN RELATIONS OF SALVADOR,
National Palace, San Salvador, April 4, 1871.

SIR: This department has received your excellency's note of the 3d instant, together with the accompanying copy of the communication which was addressed to your excellency by the department of foreign affairs of Honduras, claiming the neutrality of Comayagua as one of the most important points of the railroad line, that government having been advised that a Salvadorean division had invaded the soil of Honduras by Goascoran. As I had the honor of stating to your excellency in my official letter of the 22d of February last, the government of Salvador, in recognition of the neutrality of the railway, promised to your excellency to issue all the necessary orders to have the said neutrality duly respected in the event of an invasion by forces of this republic. To this effect I have the pleasure of giving your excellency the assurance that at the proper time the requisite orders for this purpose were given to General Don Florencio Xatruch, chief of the expeditionary army, who has, besides, advised my government of his having come to an understanding, at the town of Nacaome, with the engineers of the railroad, in order to proceed with greater certainty in his military operations, without any violation of the neutrality.

For these reasons his excellency the President, on being informed of the contents of the note from the Honduras foreign office, a copy of which your excellency has been pleased to furnish me with, has directed me to again signify to your excellency the recognition that this government has made of the neutrality of all the railroad route, in which sense the proper orders have been given and will be repeated.

In fulfilling the grateful duty of apprising your excellency of this in answer to your note above referred to, it affords me much pleasure to renew to you the assurances of my particular esteem and consideration.

I am, &c.,

SALVADOR GALLEGOS,

[The Chief of Bureau in Charge of the Department of Foreign Relations.]

No. 314.

Mr. Fish to Mr. Torbert.

No. 30.]

DEPARTMENT OF STATE,
Washington, April 10, 1871.

SIR: Your dispatch No. 37, of the 7th ultimo, has been received. It is noticed that in your note to the minister for foreign affairs of Salvador of the 6th ultimo, a copy of which accompanies that dispatch, you state unqualifiedly that this Government guarantees the neutrality of the railway which has been commenced across Honduras between the

two oceans. The instruction to you of the 20th ultimo, which you will have received before this reaches you, does not confirm that opinion. Still it is not deemed necessary that, for the present at least, you should address any note to the Salvadorian minister for foreign affairs correcting or qualifying the opinion upon the subject which you had already expressed.

I am, sir, &c.,

HAMILTON FISH.

No. 315.

Mr. Torbert to Mr. Fish.

No. 48.]

UNITED STATES LEGATION,
San Salvador, April 21, 1871. (Received May 16.)

SIR: The undersigned, minister resident, has the honor to inclose herewith a copy, and translation of the same, (marked A,) of a dispatch received from the minister of foreign relations for Salvador and his answer to the same, (marked B.)

This has been a delicate and painful duty for me; so the first note which was received I showed to Señor Dueñas, and he not being satisfied with the wording as to the guarantee of his life, I requested the minister to send another with more explicit language, which he did; and the note inclosed was approved by Señor Dueñas, who is a lawyer by profession and is willing to be tried by the laws of his country.

I am, &c.,

ALFRED T. A. TORBERT.

A.

Señor Don Gregorio Arbizu to Mr. Torbert.

[Translation.]

DEPARTMENT OF FOREIGN RELATIONS OF SALVADOR,
San Salvador, April 20, 1871

MR. MINISTER: My government is informed that the ex-president of the republic, Dr. Don Francisco Dueñas, is now living in the house of the legation which is under your excellency's charge. The presence of Señor Dueñas in your excellency's residence necessarily brings to you inconvenience and annoyances, which the government wishes to save you, by leaving you the free use of all its dependencies and removing the guard that surrounds the house with the object, mainly, that the same may not be assaulted, nor Señor Dueñas insulted by some individuals of the people who are highly incensed against him.

The government, moreover, must keep Señor Dueñas in safe custody for his own personal security, and because, pursuant to our legislation, he must be subjected to a trial.

Upon these considerations my government has decided to transfer Señor Dueñas to a house that is to serve for him as a place of detention pending the trial aforesaid, and to effect the same, desires and expects that your excellency will be pleased to express your acquiescence to the measure indicated.

The honorable minister of the United States must rely upon the formal assurance which the government gives him by these presents, that the life of Señor Dueñas will be respected as far as it may be in its power to avoid any attempt against the same, and equally, upon any event, that he will be kept in custody without causing him unnecessary annoyance.

I request of your excellency to be pleased to give me a reply as early as possible upon the subject, and to accept anew the assurances of my high esteem and consideration.

GREGORIO ARBIZU.

B.

*Mr. Torbert to Señor Dr. Don Gregorio Arbizu, minister of foreign relations.*UNITED STATES LEGATION,
San Salvador, April 20, 1871.

SIR: The undersigned, minister resident of the United States of America near the government of Salvador, has had the honor to receive the polite communication of this date which the minister of foreign affairs for the republic was pleased to direct to him, claiming the delivery of the person, ex-president Señor Dr. Don Francisco Dueñas, who is now living under the protection of this legation.

In virtue of the reasons adduced in said note, and on account of the solemn guarantee of the supreme government, (and the personal assurance given him by the President himself,) that in no case will Señor Dueñas's life be forfeited, he has the honor to reply to Señor Dr. Arbizu, minister, &c., for the information of his government, that he accepts the guarantee and is ready to deliver the person of ex-president Señor Dr. Don Francisco Dueñas to the agents who may be appointed by the supreme government of Salvador to receive him.

Having due respect for the sovereignty of the state, this action is taken, and it is a matter of great personal satisfaction to the undersigned that the government give the assurance that Señor Dueñas will be treated during his detention with special consideration.

With the highest consideration and esteem, I remain, &c., &c.,

ALFRED T. A. TORBERT.

No. 316.

Mr. Torbert to Mr. Fish.

No. 49.]

UNITED STATES LEGATION,
San Salvador, May 4, 1871. (Received May 31.)

SIR: I have the honor to inclose herewith a translation copy (marked A) of a communication received from President Medina, of Honduras. At the time of its reception the war between Salvador and Honduras was virtually over, and about the same time I received your dispatch No. 25, giving the views of the Department on the subject of the guaranteed neutrality of the Honduras Railroad by the United States, and supposing that the Department, after seeing the letter of President Medina, would rather reply more direct through the United States minister resident to that state, I have made no reply; so the matter rests as you suggested, neither Salvador nor Honduras knowing the exact interpretation put upon the treaty by the United States.

I am, &c.,

ALFRED T. A. TORBERT.

A.

President of Honduras to Mr. Torbert.

[Translation.]

SAN MIGUEL, April 13, 1871.

SIR: By virtue of the guarantee of neutrality which the Government of the American Union proffered to Honduras in an existing treaty, with reference to the port that might serve the purposes of the interoceanic railroad, my government approves you that the port of Amapala should not be used as a base for military operations, leaving it therefore under your safeguard, and removing the force it had therein stationed.

Greatly was the government of Honduras pained on learning a few days later that a body of troops, in the service of Don Francisco Dueñas, compelled the port authorities to leave, and carried off the war material that was there to protect it; and this will

out your taking, as was to be expected, a measure in behalf of that neutrality. The same thing was done with reference to Comayagua, the capital; and, nevertheless, I have also been informed of its occupation by forces of the same Señor Dueñas, in command of Generals Xatruch and Miranda, without respecting the declaration made by my government of leaving that city under the protection of the United States Government.

So much indifference in a matter of such gravity has made me determine the sending of a force to recover the island for the purpose of keeping it under the sovereignty of Honduras, and placing therein the necessary war elements to protect it. In the same manner I must make known to you that on this date I have declared the said port to be in state of siege, and ordered general headquarters to be established there for the operations of the war; and I take this step after having obtained a practical conviction that the convention that I have referred to has not been fulfilled on your part, as the representative of the cabinet of Washington, upon which case I address myself to the honorable minister of foreign relations for the information of that Government.

I expect that you will hold this communication as an official protest on the part of the government of Honduras, over which I have the honor to preside, and that in your answer you will please tell me in a clear and distinct manner if you are or are not disposed to comply with the aforesaid guarantee of neutrality.

With all consideration, I am, &c.,

J. MEDINA.

The Hon. MINISTER RESIDENT,
Of the United States of America in San Salvador.

No. 317.

Mr. Fish to Mr. Torbert.

No. 33.]

DEPARTMENT OF STATE,
Washington, May 18, 1871.

SIR: The Department has received your dispatch No. 48, of the 21st ultimo, relative to the surrender to authorities of Salvador of Señor Doctor Don Francisco Dueñas, late president of that republic, to whom you had granted an asylum. Nothing will at this time be said as to the propriety or expediency of your having granted that asylum; you are, however, referred for the general views of the Department upon the subject to instruction No. 24, of the 16th of December, 1869, addressed to Mr. Ebenezer D. Bassett, minister resident of the United States in Hayti. A copy of this instruction is herewith inclosed.

Having, however, whether for sufficient reasons or otherwise, granted a refuge to Mr. Dueñas, you thereby incurred an obligation, which, it might be said, more or less implicated the honor of this Government in its exact fulfillment.

It appears that Mr. Dueñas assented to his own surrender. This assent, however, may be regarded as so important an element in the case that it would have been preferable if it had been given in writing. This would have made it a matter of record, which might have been used, in possible contingencies, to refute a charge that the surrender was contrary to the wishes of the refugee, a charge which there may be no sufficient means of refuting.

I am, sir, &c.,

HAMILTON FISH.

Mr. Fish to Mr. Bassett.

No 24.]

DEPARTMENT OF STATE,
Washington December 16, 1869.

SIR: Your dispatch No. 20, of the 20th ultimo, has been received. It represents that in consequence of the apprehended triumph of the armed opposition to the exist-

ing government in Hayti, the foreign consulates, and even the legation of the United States, had been sought as asylums for persons and property. Occasions for this have of late years frequently arisen in the independent states of this hemisphere, but the proceeding has never been sanctioned by the Department, which, however, appreciates those impulses of humanity which make it difficult to reject such appeals for refuge. The expediency of granting an asylum in such cases, especially by consuls, is more than questionable, and the obligation to take that course has no foundation in public law, however in Hayti or elsewhere it may be tolerated and customary.

While you are not required to expel those who may have sought refuge in the legation, you will give them to understand that your Government cannot, on that account, assume any responsibility for them, and especially cannot sanction any resistance by you to their arrest by the authorities for the time being.

I am, &c.,

HAMILTON FISH.

No. 318.

Mr. Fish to Mr. Torbert.

No. 39.]

DEPARTMENT OF STATE,

Washington, June 2, 1871.

SIR: Your dispatch, No. 49, of the 4th ultimo has been received. The communication which accompanied it, addressed to you by the president, Medina, of Honduras, is certainly of an extraordinary character. Its purpose seems to have been to hold you personally responsible for an assumed delinquency of your Government in failing to comply with the stipulation on our part to maintain the neutrality of the railway across Honduras. Supposing the obligation to exist as claimed by President Medina, it is obvious that it could not be carried into effect without the exertion of a physical force, which it was ridiculous to have supposed that you could personally wield, and unreasonable to suppose that you had at command. It is deemed unnecessary to repeat the views which have heretofore been expressed in regard to the obligation of the United States under the treaty. That may, however, be summarily stated as a bargain to protect the railway, when completed, against occupation or obstruction, not only by a foreign power, but of Honduras itself, and to abstain ourselves from such occupation or obstruction. This, and this only, we conceive to be the true meaning of the phrase "neutrality," used in the treaty, an expression which certainly is not so free from ambiguity as to require no explanation. Any construction which may be offered, however, must comport with reason and probability. The construction claimed by Honduras would require the United States to protect the road against all intruders from its inception to its conclusion. No such construction is warranted by the words of the instrument.

It is deemed expedient that you should ascertain what other governments may have guaranteed the railway, and on what terms, so that, if necessary, we may have an understanding with that government as to the fulfillment of our several obligations.

I am, sir, &c.,

HAMILTON FISH.

SPAIN.

CORRESPONDENCE BETWEEN THE DEPARTMENT OF STATE AND THE
LEGATION OF THE UNITED STATES AT MADRID.

No. 319.

Mr. Fish to General Sickles.

DEPARTMENT OF STATE,

No. 66.]

Washington, June 24, 1870.

GENERAL: Inclosed you will find a copy of a note addressed to Mr. Lopez Roberts on the 9th instant, relative to the claims of citizens of the United States against Spain, growing out of summary arrests and imprisonments, military executions, arbitrary embargoes of property, and other acts done by the Spanish authorities in Cuba to the persons and properties of citizens of the United States, in violation of the provisions of the treaty of 1795 between the Government of the United States and the government of Spain. You will also find a further communication on the same subject in regard to a claim which was presented to the Department subsequent to the transmission of the note of the 9th instant. Each of the cases mentioned in the former of these notes had previously been the subject of instruction to the consul general of the United States in Havana, to be brought to the attention of the authorities in the island of Cuba, and of demand for redress. You will observe, that these notes were sent to Mr. Lopez Roberts, under the supposition that the extraordinary powers as to Cuba which were conferred upon him by his government last year were still vested in him, and that they were broad enough to authorize him to arrest these infractions of the rights secured by the treaty, and to obtain the restoration of their properties to the citizens of the United States. I am informed, however, by Mr. Roberts that those powers are no longer efficient, and that he can do nothing in the premises.

I have therefore to instruct you to bring this whole subject to the notice of the Spanish government, and to say that the President hopes that immediate steps will be taken for the release of all the citizens of the United States who may be held in custody in Cuba in violation of the provisions of the treaty of 1795, or for their immediate trial under the guarantees and with the rights secured by that treaty. You are also instructed to ask for the restoration to the citizens of the United States of their properties and estates, so far as the same have been arbitrarily embargoed in violation of the provisions of that treaty. You will also endeavor to secure some mode for the early and equitable indemnification and satisfaction to the several parties, whose rights have been violated, of the amounts which should rightfully come to each claimant for the illegal detention of his property or his person. You will say that this suggestion is made in the interest of peace, of justice, and of good will, in order to secure a measure of damages in each case which shall be just as between the two governments. You will also say that it is extremely desirable to have the investigation conducted in this country. It cannot be done in Spain without subjecting the claimants to unnecessary expense. It cannot be done in Cuba, at present, without subjecting many of them to personal danger. In this connection I must again, on behalf of this Government, express, in the interest of good will and of the continued good understanding which we desire to maintain with Spain, the strong desire of the Presi-

dent that the government at Madrid will confer fresh powers upon Mr. Lopez Roberts (or upon such other person on this side of the Atlantic as may be selected for that purpose) to arrange all such questions with this Government.

The Spanish authorities in Cuba seem to be clothed with absolute power for the commission of such acts as are now complained of, but when redress is sought, we are referred to the distant cabinet of Madrid, where it is often found necessary to refer again to Cuba for information, and the case is thus suspended and delayed, to the grievous injury of the parties and at the hazard of irritation from the delay of which the necessity is not apparent to the impatient sufferers or to the public.

The President has respected the Spanish claim of sovereignty over the island of Cuba during the present contest against a strong sympathetic pressure from without. Spain owes it to the United States as well as to her own traditional honor and sense of justice that her sovereignty shall not be used for the oppression and injury of the citizens of this republic.

You will urge this point in every way that your good judgment may suggest.

I am, &c.,

HAMILTON FISH.

Mr. Fish to Mr. Lopez Roberts.

DEPARTMENT OF STATE,

Washington, June 9, 1870.

The undersigned is directed by the President to invite the earnest attention of Mr. Mauricio Lopez Roberts, envoy extraordinary and minister plenipotentiary of Spain, to the irregular and arbitrary manner in which the persons and properties of citizens of the United States are taken and held by the Spanish authorities in the island of Cuba.

When Count Valmaseda, in April of last year, issued a proclamation declaring that every man, from the age of fifteen years upward, found away from his habitation as not proving a sufficient motive therefor, would be shot; that every habitation unoccupied would be burned; and that every house not flying a white flag should be reduced to ashes, it became the duty of the undersigned to convey to Mr. Lopez Roberts the protest of the President against such a mode of warfare, and his request that the authorities in Cuba would take steps that no person having the right to claim the protection of the Government of the United States should be sacrificed or injured in the conduct of hostilities on that basis.

When again, about the same time, it came to the knowledge of this Government that the captain general of Cuba had, on the 1st day of April, 1869, issued a proclamation which virtually forbade the alienation of property in the island, except with the revision and assent of certain officials named in the decree, and which declared null and void all sales made without such revision and assent, the President again directed the undersigned to say that he viewed with regret such sweeping interference with the rights of individuals to alienate or dispose of their property, and that he hoped that steps would be speedily taken to modify that decree so that it should not be applicable to the property of citizens of the United States, and so that disputes and complaints that could not fail to arise if its execution should be attempted as to such property might be prevented.

When, seventeen days later, a decree was issued creating an administrative council for the custody and management of embargoed property; and when, three days afterward, the captain general issued a circular extending the previous embargo to the property of all persons, either within or without the island, who might take part in the insurrection, whether with arms in their hands or aiding it with arms, munitions, money, or articles of subsistence, this Government confidently expected that the cabinet of Madrid, and the authorities of Spain in the island of Cuba, would regard the then recent expressions of its wishes, and would not willingly permit the rights of citizens of the United States to be interfered with or their properties to be sequestered without the forms of law to which they were entitled.

When the President directed the undersigned to invite attention to the possibility that the laws and decrees which had been promulgated in Cuba might lead to an infraction of the treaties between Spain and the United States, he was not unmindful of the disorganized condition of society in parts of that island, nor of the difficulties which

attended the enforcement of the authority of Spain. On the contrary, he was induced to make such representation by a desire to avoid increasing those difficulties, and to prevent further complications so far as the act of this Government could do so.

The seventh article of the treaty of 1795, between the United States and Spain, provides—

“That the subjects or citizens of each of the contracting parties, their vessels or effects, shall not be liable to any *embargo* or detention on the part of the other for any military expedition or other public or private purpose whatever; and in all cases of seizure, detention, or arrest for debts contracted, or offenses committed, by any citizen or subject of the one party within the jurisdiction of the other, the same shall be made and prosecuted by order and authority of law only, and according to the regular course of proceedings usual in such cases. The citizens and subjects of both parties shall be allowed to employ such advocates, solicitors, notaries, agents, and factors as they may judge proper, in all their affairs, and in all their trials at law in which they may be concerned, before the tribunals of the other party, and such agents shall have free access to be present at the proceedings in such causes, and at the takings of all examinations and evidence which may be exhibited in the said trials.”

It is with great regret that the Government of the United States feels itself forced to say that it is informed that the provisions of this article of the treaty of 1795 have not been kept in mind by the authorities in Cuba during the present struggle. It appears to the President that the sweeping decrees of April, 1869, have been put in operation against the properties of citizens of the United States in violation of the treaty agreement that such property should not be subject to embargo or detention for any public or private purpose whatever.

Inclosed is a list of the citizens of the United States who, up to this date, have presented to this Government complaints of such embargo or detention of their property.

The decree of embargo is of itself an extraordinary exercise of supreme power, outside of the ordinary and regular course of legal or judicial proceedings, and even if properly exercised with respect to the subjects of Spain and their properties, appears to be in contravention of the rights secured by treaty to the citizens of the United States, and the proceedings under the decree against the properties of citizens of the United States have not, as is understood, been prosecuted by order or authority of laws only, but in the exercise of the extraordinary functions vested in or exercised for the occasion by the supreme political authority of the island, and have been arbitrary and unusual, and without the safeguards to personal rights and rights of property which ordinarily accompany legal proceedings, which the seventh article of the treaty guarantees.

It is understood that the citizens of the United States whose properties have been thus taken forcibly from them have not been allowed to employ such advocates, solicitors, notaries, agents, and factors as they might judge proper; on the contrary, as this Government is informed, their properties have been taken from them without notice, and advocates, solicitors, notaries, agents, or factors have not been allowed to interpose in their behalf. It is further understood that the names of parties whose properties are thus embargoed are from time to time published and their properties thereafter immediately seized, without opportunity to them or their agents to be present at any proceedings in regard thereto, or at the taking of examination or evidence.

In many instances these proceedings have been taken against the properties of citizens of the United States who were not at the time, and who have not during the continuance of the disturbances, on the island of Cuba, been within the jurisdiction of Spain, and it is notorious that by going to the island of Cuba, after the official denunciation of their alleged conduct, they would subject themselves to arbitrary arrest and possible summary military trial, if not to the uncontrolled violence of popular prejudice.

The undersigned has also received representations from several citizens of the United States complaining of arbitrary arrest and of close incarceration without permission to communicate with their friends, or with advocates, solicitors, notaries, agents, and factors, as they might judge proper. In some of these cases the parties have been released; in others, they are understood to be still held in custody.

The undersigned has the honor to inclose a list of the citizens of the United States who, up to this date, have presented to this Government complaints of such arrest and detention.

In some cases, also, such arrests have been followed by military trial, without the opportunity of access to advocates or solicitors, or of communication with witnesses, and without those personal rights and legal protections which the accused should have enjoyed; and such summary trials, when ending in conviction, have been followed by summary execution. Such cases, so far as they have come to the knowledge of the undersigned, are included in the list herewith transmitted.

What has been already done in this respect is, unhappily, past recall, and leaves to the United States a claim against Spain for the amount of the injuries that their citizens have suffered by reason of these several violations of the treaty of 1795—a claim which the undersigned presents on behalf of his Government with the confident hope that the government of Spain, recognizing its justice, and making some proper and suitable

provision for ascertaining the amount which should rightfully come to each claimant, will also order the immediate restoration to the citizens of the United States of their properties which have been thus embargoed, and the release of those citizens of the United States thus held, or their immediate trial under the guarantees and with the rights accorded by the treaty.

As to the future, it is confidently expected that steps will be taken to insure against further violations of the treaty. The high sense of honor for which Spain is proverbial will (the President feels assured) prompt her to take vigorous steps to secure to citizens of the United States within Spanish dominions the full measure of the rights accorded to them by the treaty of 1795.

The extraordinary powers as to affairs in Cuba which were conferred upon Mr. Lopez Roberts by his government, and which were communicated to the undersigned on the 12th day of August last, are understood by the Government of the United States to be broad enough to authorize him to arrest these infractions of the rights secured by the treaty and to obtain the restoration of the properties. If, however, such is not the case, the undersigned then takes the liberty to ask Mr. Lopez Roberts to advise him of such absence of power, in order that instructions may be given to the minister of the United States at Madrid.

In closing this note, the undersigned must expressly reserve to the Government of the United States the right to restate its grievances on these points, as new facts may come to its knowledge showing further and other injuries to the properties of citizens of the United States from like causes.

The undersigned avails himself of this occasion to renew to Mr. Lopez Roberts the assurances of his highest consideration.

HAMILTON FISH.

Señor DON MAURICIO LOPEZ ROBERTS, *&c.*, *&c.*, *&c.*

1.—*List of citizens of the United States whose property has been embargoed.*

Angarica, José García.
Angarica, Joaquín García.
Casanova, Inocencio.
Criado y Gómez, Ramón F.
Delgado, Joaquín.
Danford, Knowlton & Co.
Govin y Pinto, José,

Madan, Cristobal.
Mora, Fausto.
Mueses, Martin.
Rivas y Lamar, Ramón.
Rozas, John C.
Taylor, Moses & Co.

2.—*List of citizens of the United States who have been imprisoned, "incomunicado."*

Brito, José Vicente, arrested and imprisoned at Havana on February 12, 1869.
Cabias, Theodore, arrested at Matanzas in January, 1869.
Cabada, Emelio F.
De Castro, Lucas A., imprisoned at Trinidad de Cuba in March, 1869.
Del Villar, Gabriel Suarez, at Trinidad de Cuba in March, 1869.
Edwards, James M., at Manzanillo in November, 1868.
Jemot, Charles, at Trinidad de Cuba in May, 1869.
McGregor, Douglass, at Trinidad de Cuba in August, 1869.
Miranda, Thomas, confined in an iron cage at Havana.
Powers, John E., arrested near Trinidad de Cuba in April, 1870. Still held "incomunicado" at last advices.
Rozas, John C., arrested on February 3, 1869, near Santa Maria del Rosario, and sent to Fernando Po on March 21.
Simmons, A. T., at Puerto Principe in February, 1869.
Sportuno y Prats, Mrs., at Trinidad de Cuba in February, 1870.
Schultz, F. A., arrested at Madruga on August 28, 1869.
Tate, James, arrested at Trinidad de Cuba on April 30, 1870, and, at last advices, held "incomunicado."

3.—*List of other citizens of the United States who have been arrested and imprisoned in Cuba.*

De Silva, Emilio.
Estrada, Rafael.
Fritot, Henry.
Gonzalez, Gregorio.
Machado, John A.
Morales, Angel.
Ortega, José Maria.
Pedro, Patchol.

Ponce de Leon, José M.
Polhamus, Charles J.
Pintado, Sebastian.
Portuondo, Juan F.
Santa Rosa, Augustin.
Speakman, Charles.
Wyeth, Albert.

No. 320.

General Sickles to Mr. Fish.

No. 136.]

LEGATION OF THE UNITED STATES,
Madrid, July 26, 1870. (Received August 11.)

SIR: I have the honor to transmit herewith a copy of my note to Mr. Sagasta, dated to-day, in regard to the matters embraced in your instructions of the 1st instant and 24th ultimo.

You will observe that I have recapitulated the substance of your note to Mr. Roberts, in order to bring up the whole issue for settlement here. Now that these questions are formally presented to this cabinet, I shall endeavor to impress upon General Prim the importance of prompt and friendly action, to which I suspect he will be more inclined by existing European complications.

I am, &c.,

D. E. SICKLES.

LEGATION OF THE UNITED STATES,
Madrid, July 26, 1870.

SIR: On the 9th ultimo, the Secretary of State of the United States addressed a note to the representative of Spain in Washington, setting forth sundry grievances suffered by citizens of the United States at the hands of the Spanish authorities in Cuba.

On the 18th ultimo another communication was made to Mr. Roberts by the Acting Secretary of State, Mr. Davis, in relation to a complaint which was presented to the Department of State subsequent to the transmission of the former note. The attention of the Spanish minister was invited to these matters under the supposition that he still exercised certain extraordinary powers, understood to have been conferred upon him with reference to questions arising out of the contest in Cuba, and that those powers were broad enough to authorize him to act in the premises.

On the 24th ultimo, Mr. Roberts informed the Secretary of State that, in view of the improved condition of affairs in the island of Cuba, the government of His Highness the Regent no longer deemed it necessary to continue the powers granted in August, 1869, to the representative of Spain in Washington.

All of the cases mentioned in the note of the Secretary of State to the Spanish minister in Washington had been the subject of instructions to the consul general of the United States in the Havana, in order that they should be brought to the attention of the authorities in Cuba, and redress be demanded.

On the 11th instant, I had the honor to inform your excellency that I had been instructed to bring these several matters to the notice of the government of His Highness the Regent, and in compliance with the intimation then given I proceed to perform that duty.

The reclamations I am directed to present are for injuries done to the persons and property of American citizens by the Spanish authorities in Cuba, in violation of Article VII of the treaty of 1795, between the United States and Spain. In numerous instances the property of citizens of the United States has been seized upon the mere order of the captain general, forcibly taken from their possession, or from the control of their agents, without judicial proceedings, and confiscated to the use of the Spanish authorities. In other cases, citizens of the United States have been arrested, imprisoned, and condemned to suffer the severest punishments without legal cause shown, and without the sanction or authority of any judicial tribunal.

Appended to this note your excellency will find a particular statement of the names of the parties whose property has been embargoed, and of those who have been imprisoned or put to death by the authority of the captain general of Cuba, in violation of the treaty of 1795. Nevertheless, the Government of the United States reserves the right to restate its grievances as new facts may come to its knowledge, showing further and other injuries to the persons and property of American citizens.

The United States have addressed repeated remonstrances to the government of Spain against the successive measures of the authorities in Cuba which have appeared to authorize acts inconsistent with the rights secured to American citizens under the treaty of 1795. It may be useful to recur to some of these representations. In April, 1869, General Valmaseda issued a proclamation declaring that every male person, above the age of fifteen years, found away from his habitation and not proving a sufficient

motive therefor, would be shot; that every unoccupied habitation, and every dwelling not flying a white flag, would be burned. The Secretary of State of the United States promptly protested, in the name of the President, against such a mode of warfare, and asked that the proper steps be taken so that the persons and property of those having the right to claim the protection of the Government of the United States should not be injured in the execution of Count Valmaseda's order.

About the same time, on or about the 1st of April, 1869, the captain general issued a proclamation, declaring void all sales and conveyances of property in the island made without the assent of certain officials named in the decree. As soon as the proceeding came to the knowledge of the President, he caused the government of His Highness the Regent to be informed of the regret with which he regarded such a prohibition of the rights of individuals to alienate their property, and, in order to prevent the complaints and controversies that could not fail to arise if the execution of the measure should be attempted, the Secretary of State requested that the decree might be so modified as not to be applicable to the property of citizens of the United States.

Seventeen days later a further decree was issued, creating an administrative council for the custody and management of embargoed property; three days afterward the captain general promulgated an order extending the embargo already authorized to the property of all persons, either within or without the island, who might take part in the insurrection, whether with arms in their hands or aiding it with arms, means, money, or subsistence.

The President having expressed his apprehension that, in the execution of these extreme measures taken by the authorities in Cuba, the rights of citizens of the United States might be compromised, he confidently expected that the cabinet of Madrid, the superior political authority in Cuba would not suffer American citizens to be deprived of life, liberty, or property without due regard to the reservations and safeguards provided in the treaty of 1795.

The Government of the United States was not unmindful of the disorganized condition of affairs in parts of the island, nor of the difficulties which, in some localities, attended the enforcement of the authority of Spain. There was no allegation that the courts of law were closed in the Havana, where most of these proceedings occurred, or that the functions of the civil authority could not be performed in any of the principal towns of the island. And the President was induced to address his friendly representations to the government of His Highness the Regent, by a desire to avoid increasing the embarrassments growing out of the contest in Cuba, and to prevent further complications, so far as the act of the Government of the United States could do. The seventh article of the treaty of 1795, between the United States and Spain, is as follows:

"And it is agreed that the subjects or citizens of each of the contracting parties, their vessels or effects, shall not be liable to any embargo or detention on the part of the other, for any military expedition or other public or private purpose whatever, and in all cases of seizure, detention, or arrest for debts contracted or offenses committed by any citizen or subject of the one party within the jurisdiction of the other, the same shall be made and prosecuted by order and authority of law only, and according to the regular course of proceedings usual in such cases. The citizens and subjects of both parties shall be allowed to employ such advocates, solicitors, notaries, agents, and factors as they may judge proper, in all their affairs, and in all their trials and suits in which they may be concerned, before the tribunals of the other party; and the agents shall have free access to be present at the proceedings in such causes, and the taking of all examinations and evidence which may be exhibited in the said trials."

It will be seen that, by the provisions of the article above cited, each of the contracting parties has expressly renounced all right to embargo or detain the property of the citizens or subjects of the other. The broad and emphatic terms of this renunciation include every possible case in which the power could be exercised. No exigency of war, no requirement of the public service, no civil disorder is permitted by the stipulations of the treaty to sanction or excuse these prohibited acts of spoliation. Moreover, it is equally plain that it was the distinct and beneficent purpose of both governments to secure for their citizens and subjects respectively, within the dominions of the other, the protection of the laws of the land and of the courts of law, and of the essential safeguards for the administration of justice, in all prosecutions for an offense alleged to have been committed against the good order, peace, and dignity of the commonwealth.

It is with profound regret that the Government of the United States has learned that the provisions of this treaty have not been observed by the authorities in Cuba during the present struggle in that island. The decrees of April, 1869, have been put in operation against citizens of the United States, in violation of a solemn engagement that their property should not be subject to seizure, embargo, or detention for a public or private purpose whatever.

And American citizens have been arrested, imprisoned, and executed, without authority of law and regardless of the regular and established course of legal procedure.

which should have been followed in conformity with the requirements of the convention between the United States and Spain. Whether authority may have been delegated to, or exercised by, the authorities in Cuba with reference to Spanish subjects, it is not to be supposed that the government of Spain would in any manner sanction the acts of its civil and military officers done in contravention of the rights of citizens of the United States guaranteed by the treaty of 1795, rights which could not be rescinded, suspended, or annulled without the consent of the United States. So far is any such supposition from the views of the President that he is persuaded that it is only necessary to bring to the notice of the government of His Highness the Regent the frequent instances in which the authorities in Cuba have deprived American citizens of liberty, property, and sometimes even of life, without regarding the reciprocal engagements entered into between the two countries, to insure such friendly and prompt action on the part of Spain as will repair the wrongs already done, so far as they can be repaired, and prevent the repetition of such injuries in the future.

The decree of embargo published by the captain general of Cuba is an extraordinary exercise of supreme power, outside of the ordinary and regular course of legal and judicial action. If properly exercised with respect to the subjects of Spain and their property, it appears to be in plain contravention of the rights secured by treaty to the citizens of the United States. And if we pass from the decree itself, and examine the methods by which it has been executed, it will be found that these also have been arbitrary, summary, and unusual, and contrary to the provisions of the treaty which should have controlled and regulated the acts of the authorities in Cuba affecting the property of American citizens.

The proceedings of the case of Mr. Joseph Hernandez, which are presumed to be the same as have taken place in the other cases enumerated in the appendix to this note, may be cited as an example of the manner in which the decree of embargo has been carried into effect. Mr. Hernandez, a civil engineer by profession, has resided in the United States some twelve years, where he married, and afterward, in conformity with the laws of the United States, became a naturalized citizen thereof. He is the owner of certain valuable lands in the island of Cuba, situated in the district of Vereda Nueva, and known as "El Retiro." On the 25th of February last a decree was published in the "Gaceta de la Habana," in which it is set forth that "his excellency the superior political governor has considered it convenient to declare comprehended in article 1 of the circular of the 20th of April of last year Mr. José de Jesus Hernandez y Macias, who resides abroad. This being an order from his excellency, it is published in the Gaceta for general information, and in order that the competent authorities proceed to seize all his property in accordance with the above-mentioned circular. Havana, 24th February, 1870. (Signed,) The secretary, Cesáreo Fernandez."

It appears, therefore, that the decree of embargo is executed by the same executive authority which issued it. It does not seem to be a law which the courts of justice are permitted to administer. It is rather an edict, enforced by a succession of orders not less extraordinary and imperial than the original fiat on which they are founded. Although it is understood that the courts of law are open in the city of Havana, where the proceedings took place, there is no evidence that the authorities filed any information or complaint against any of the citizens of the United States whose property has been confiscated; it does not appear that any citation was issued or published or served upon the parties, their agents, factors, or attorneys, notifying them to appear and show cause why judgment should not be pronounced against them; nor that they have been afforded any opportunity to be heard in their own defense, either in person or by their advocates, solicitors, and attorneys.

On the contrary, the Government of the United States is informed that the lands and property of many of its citizens have been taken from them without color of law, and in the exercise of the extraordinary functions vested in or exercised for the occasion by the supreme political authority of the island; that these unusual measures have been enforced against citizens of the United States who were not at the time in Cuba, and who had not been within the jurisdiction of Spain during the disturbances in that island; that they have been deprived of their estates without notice and without a hearing; that from time to time the names of these parties respectively have been published by the executive authority, with a declaration that their property is embargoed, and thereupon their goods, lands, and tenements have been immediately seized, without opportunity to the persons interested, or their agents, to be present at any inquiry or investigation in regard thereto, or at the taking of any testimony that may have been received and considered in the premises. And it therefore appears to the President that the sweeping decrees of April, 1869, so far as they have been enforced in Cuba against citizens of the United States, are inconsistent with the convention between the two countries; and that the proceedings taken to execute those decrees are arbitrary and unusual, without the safeguards to personal rights and the rights of property which ordinarily accompany the administration of justice in legal tribunals, and which are guaranteed by treaty to American citizens within the jurisdiction of Spain.

And I am accordingly instructed to ask for the restoration to the citizens of the

United States of their property and estates, so far as the same has been arbitrarily embargoed by the authorities in Cuba, in violation of the provisions of the seventh article of the treaty of 1795, between the United States and Spain, and for such reasonable and just indemnity for the wrongful seizure and detention of their property as will compensate the aggrieved parties. The provisions of the treaty of 1795 seem to have been likewise disregarded by the authorities of Cuba in the arrest, imprisonment, and punishment of certain American citizens. A brief memorandum of these cases will be found appended to this communication. These arrests are represented to have been arbitrary and without legal process or cause shown; the parties have been placed in close confinement, denied all communication with their friends, and prohibited from consulting such advocates, solicitors, and attorneys as they desired to employ; in a few instances, after an imprisonment of more or less duration, the parties have been released, while others are still held in custody. In some cases the accused have been condemned by a military tribunal, without the opportunity of access to counsel or witnesses, or other means of preparing for their defense, such as accused persons should have enjoyed; and several of these summary trials, when ending in conviction, have been followed by the immediate execution of the sentence of death. The President is persuaded that the government of His Highness the Regent will see in these proceedings grave violations of the rights secured to American citizens by the treaty of 1795. It is provided by the seventh article of the treaty that the arrest of a citizen of the United States for an offense committed within the Spanish jurisdiction, shall be made and prosecuted by authority of law and according to the regular course of proceedings usual in such cases; that the accused shall have the aid and assistance of counsel in his trial; and that such counsel shall have free access to be present at all proceedings in the case and at the taking of all testimony which may be produced on the trial. In the case which I have now the honor to bring to the notice of your excellency, I regret to be compelled to state that none of these safeguards, so essential to the administration of justice and the vindication of innocence, have been observed. So far as relates to the parties concerned there might as well have been no laws, no courts, no established course of legal procedure in Cuba. The arrests, the trials—when trials have taken place—and the punishments inflicted, are all represented to have been exceptional and arbitrary acts of executive or military authority. In presenting these facts and considerations to your excellency, I am instructed to say that the President hopes that immediate steps will be taken for the release of all the citizens of the United States who may be held in custody in Cuba, in violation of the treaty of 1795 between the United States and Spain; or for their immediate trial under the guarantees and with the rights secured by that treaty.

I am further instructed to invite the co-operation of your excellency in arriving at some decision as to the manner in which the two governments may most conveniently ascertain and determine the amount which should come to each claimant for the illegal detention of his person or his property, so that the several parties whose rights have been violated may receive early and equitable indemnification and satisfaction for the injuries they have sustained. This suggestion is made by my Government in the interest of peace, of justice, and of good will, in order to secure a measure of damage in each case which shall be just as between the two governments.

It is extremely desirable that the investigation should be conducted in the United States. It cannot be done in Spain without subjecting the parties to unnecessary expense and delay. It cannot proceed in Cuba, at present, without subjecting many of them to personal danger. I hope, therefore, it may be agreeable to your excellency to appoint a time when we may have a conference on this subject, which I do not permit myself to doubt would have a satisfactory result. If, for example, the government of His Highness the Regent would designate or authorize his excellency the minister of Spain in Washington to choose one of the Spanish consuls in the United States, or some other suitable person, to act in conjunction with an agent of the United States, to be named for this purpose, I am confident that the inquiry could be so conducted with convenience to all parties, and that the conclusions reached would be satisfactory to both governments.

And I am also instructed to express on behalf of my Government, in the interest of the continued good understanding which the United States wish to maintain with Spain, the strong desire of the President that the cabinet of Madrid will confer fresh powers upon Mr. Lopez Roberts, or upon such other person on the other side of the Atlantic as may be selected for that purpose, to arrange with the Government of the United States the class of questions presented in this note. The authorities in Cuba seem to be clothed with ample power to do the acts which have been the subject of the present and of former communications; but when redress is sought the matter is transferred to the distant cabinet of Madrid, where it is often found necessary to remand the case to Cuba for information; and thus the most urgent questions, often involving the liberty and even the lives of American citizens, are suspended, to the grievous injury of the parties and at the hazard of irritation from the delay, of which the necessity is not apparent to the impatient sufferer or to the public.

It appears from the note addressed to the Department of State, on the 24th ultimo, by the representative of Spain in Washington, Mr. Lopez Roberts, that in view of the favorable situation in the island of Cuba, the government of His Highness the Regent deems it no longer necessary to continue the powers heretofore given to Mr. Roberts. And in asking for this suggestion the attention of your excellency, I am directed to state that if the situation in Cuba be so favorable as to render these powers unnecessary, it is hoped that the arrests and embargoes complained of will cease, and that immediate reparation will be made for those that have occurred. The President has respected the Spanish claim of sovereignty over the island of Cuba during the present contest, against a strong sympathetic pressure from without. He has scrupulously performed all the duties imposed upon him by treaties and by international law, to restrain and prevent the citizens of the United States from doing acts prejudicial to Spain. And when it is considered that the struggle in Cuba could not fail to engage the sympathies of a neighboring people who had themselves thrown off the domination of a European power and established a republican form of government, your excellency will appreciate the high sense of public duty which animated the President in the execution of his difficult task. The American Government, while evincing its profound respect for the obligations imposed upon it by treaties and its relations of amity with Spain, cannot do less than recognize at the same time the susceptibility with which the people of the United States regard offenses committed at home or abroad against the persons or property of their fellow-citizens. It is therefore incumbent upon the President to insist upon the rights Spain owes to American citizens by virtue of the treaty of 1795, with the same firmness he has manifested on his part in restraining all persons within the jurisdiction of the United States from acts injurious to Spain.

The treaty of 1795, negotiated on the part of Spain by the Prince of Peace and ratified during the administration of George Washington, recalls some of the earliest traditions of the cordial and uninterrupted friendship which has been so long preserved between the United States and Spain.

In the name of these traditions and for the sake of that friendship, I appeal to your excellency to cause such instructions to be given to the authorities in Cuba as will prevent further injuries to citizens of the United States who may be found within that jurisdiction or who may have property there. There was no moment of the long and exhausting civil war in the United States when Spanish subjects within our territory were injured in person or property without due process of law, or were refused any of the safeguards which belong to the administration of justice. And Spain owes it to the United States, as well as to her own high sense of honor and of justice, that her sovereignty shall not be used anywhere for the oppression and injury of the citizens of the republic.

I avail myself of this opportunity to repeat to your excellency the assurances of my most distinguished consideration.

D. E. SICKLES.

His Excellency the MINISTER OF STATE.

No. 321.

General Sickles to Mr. Fish.

[Extract.]

No. 140.]

LEGATION OF THE UNITED STATES,
Madrid, August 3, 1870. (Received August 17.)

SIR: Last night, in the course of a conversation with the president of the council, I referred to my note of the 26th ultimo, addressed to the minister of state, in regard to the treatment of American citizens in Cuba, and expressed the hope that it would be agreeable to his excellency to facilitate a satisfactory settlement of the questions I had presented. General Prim replied that he had already read my communication, and that it should receive immediate attention; that he appreciated the friendly action of the President, and that he was extremely anxious to remove every source of misunderstanding between the two countries; that the cabinet had now under consideration some

general rules for the guidance of the authorities in Cuba, which, when made the subject of precise instructions, would prevent the recurrence of similar causes of complaint; that he had no doubt instances had occurred in which, through an excess of zeal, the authorities in Cuba had proceeded without sufficient care and deliberation; and that in all cases of just complaint he was disposed to make proper reparation. He added that I would soon hear from Mr. Sagasta on the subject, and he hoped the action of the Spanish cabinet would be found satisfactory to the President. I remarked that your note to Mr. Roberts of the 9th June had been communicated to Congress; that the long list of grievances complained of had painfully impressed public opinion in the United States, and I was therefore all the more desirous that his excellency should appreciate the importance of prompt action.

I am, &c.,

D. E. SICKLES.

No. 322.

General Sickles to Mr. Fish.

No. 146.]

LEGATION OF THE UNITED STATES,
Madrid, August 12, 1870. (Received September 6.)

SIR: This being the usual day of reception at the ministry of state, I called upon Mr. Sagasta, with the intention of expressing my hope that I might soon receive an answer to my note of the 26th ultimo. After some conversation in regard to the news of the day, his excellency himself introduced the subject by saying that the delay in his answer had been occasioned by the necessity of obtaining from the ministry of ultramar fuller information in regard to various points that existed in the department of state; that these notes were now completed, and he would prepare his reply as soon as possible.

I said that I was very desirous to be able to transmit to my Government a satisfactory answer at the earliest possible day; adding that your dispatches on the subject had, in accordance with the custom of our Government, been communicated to Congress, and that the list of grievances presented had of course painfully impressed the public opinion; that this consideration increased the importance of an early and satisfactory solution. I referred to the official accounts of the improved situation in Cuba, and urged this as another reason for the prompt redress of existing grievances, and the prevention of their recurrence in future.

His excellency expressed his hearty assent to these views. He said as soon as he had completed his examination of the questions involved, he would invite me to a conference, and did not doubt we would come to a satisfactory arrangement.

I am, &c.,

D. E. SICKLES.

No. 323.

General Sickles to Mr. Fish.

No. 167.]

LEGATION OF THE UNITED STATES,
San Ildefonso, September 30, 1870. (Received October 18.)

SIR: The following cable telegram has been dispatched from this legation, via Lisbon and Valencia Bay:

FISH, *Secretary of State, Washington:*

Minister of state replies to my note of twenty-sixth July that Spanish government will agree to appointment of arbitrators to estimate damages and fix indemnity to be paid, when certain preliminary conditions shall have been complied with, if it shall then appear that any American citizen has been aggrieved.

These conditions are:

First. The claimants must prove their citizenship before the Spanish authorities.

Second. Their respective claims must be separately presented, in due form, with particulars.

Third. It must appear that the claimants respectively have personally presented their reclamations to a Spanish court, or that the United States consul has intervened in their behalf, without result.

The answer is long, evasive, and dilatory. Will forward copy by mail with my reply.

SICKLES.

MADRID, *September 29.*

A duplicate copy was forwarded by mail to the United States minister in London for retransmission by telegraph from that place.

I am, &c.,

D. E. SICKLES.

No. 324.

Mr. Fish to General Sickles.

[Telegram.]

DEPARTMENT OF STATE,
*Washington, October 3, 1870.*SICKLES, *Minister, Madrid:*

Repeat from without result to end of dispatch. Opinion on terms reserved till full telegram can be read.

FISH.

No. 325.

Mr. Fish to General Sickles.

[Telegram.]

DEPARTMENT OF STATE,
*Washington, October 10, 1870.*SICKLES, *Minister, Madrid:*

The conditions of the proposed arbitration mentioned in your telegram are entirely objectionable, and cannot be admitted. You characterize them properly.

FISH.

No. 326.

General Sickles to Mr. Fish.

No. 172.]

LEGATION OF THE UNITED STATES,
Madrid, October 14, 1870. (Received November 15.)

SIR: I have the honor to forward herewith translations of three notes from the minister of state, dated respectively September 12, 15, and 20, in answer to the communication I addressed to him under date of July 26, in obedience to your instructions, Nos. 66 and 67, on the subject of injuries to the persons and property of American citizens done by the Spanish authorities in Cuba; also a copy of my reply of this date. I transmit likewise a translation of an unofficial note from Mr. Sagasta, dated September 27, in answer to mine of the 25th, inquiring whether the last paragraph of his note of the 12th was intended to intimate that arbitrators might be named immediately to ascertain the amount of damages the several claimants should respectively receive. You will also find inclosed an extract from the *Gaceta* of the 13th instant, containing the Regent's decree of the 12th, appropriating the proceeds of sales of embargoed property toward the payment of the expenses of maintaining the government in Cuba, and to which a reference is made in my reply. I have endeavored, while following your instructions by telegram of the 10th instant, in treating the proposed conditions of arbitration as inadmissible, to fortify our position on the questions involved in the discussion, by some additional facts and considerations, and you will observe that I have also renewed in a more amplified form the suggestion thrown out in my note of July 26, as to the manner in which the several reclamations should be submitted to arbitrators. Permit me to call your attention to some indications in Mr. Sagasta's argument of a purpose on the part of Spain to deny the right of expatriation, and revive the old dogma, "Once a subject, always a subject."

I am, &c.,

D. E. SICKLES.

APPENDIX A.

Mr. Praxedes Mo. Sagasta to General D. E. Sickles.

[Translation.]

MINISTRY OF STATE, MADRID, *September 12, 1870.*

SIR: I have received the note which you were pleased to send me under date of the 26th of last July, and have now the honor to reply to its different statements on behalf of the government of His Highness the Regent of the kingdom.

The representations you are pleased to make in the name of the Government of the United States are of two classes; some referring to the manner in which Spain has directed, and still directs, operations to attain the complete pacification of the island of Cuba, and others, more explicit, upon the treatment of certain North American citizens residing in that island.

Respecting the first charges, your note begins by setting forth the arbitrary way in which, in your judgment, the persons of subjects of the United States are detained and their property embargoed; and, in this connection, you cite the proclamation of Count Valmaseda, of the 4th of April, 1869, at the same time stating that the Cabinet of Washington hastened to protest at once against that order, and against such a mode of warfare, and evinced its solicitude that the Cuban authorities should take such measures that the persons and property of those who had a right to claim the protection of the Government of the United States might not be comprehended in the execution of the said proclamation. To complete the record of this matter, in so far as

t concerns the interests of the North American Government, I deem it proper to add that, on the 2d of June of the same year, this ministry informed your worthy predecessor, Mr. Hale, that telegraphic instructions had been sent to the authorities in Cuba to observe the utmost possible moderation in carrying out all those orders and measures whose execution might interest foreign governments, protesting, nevertheless, against any unjustifiable interference with the exercise of our authority within the limits of the jurisdiction which, by virtue of her sovereignty, belongs to Spain as an independent state.

Neither the Spanish government nor the authorities of Cuba have been informed that any reclamation whatever has been presented, on the part of any foreign subject, against the enforcement of the proclamation referred to; whence it is logically to be inferred, either that Count Valmaseda's decree was never carried into effect, or that, if it were, its operations did not reach those subjects. This decree was doubtless a stratagem of war, having for its only object the readier discrimination of the insurgents, as, in fact, proved to be the case without the necessity of enforcing it; and that, even in this sense, it was subsequently annulled by a circular of General Caballero de Rodas, on assuming the superior command of the island.

The Government of the United States should take into consideration the fact that Espedres and his accomplices inaugurated their criminal rebellion by burning and levastating plantations and towns; nor can it be ignorant that many American citizens, influential proprietors in that island, were reduced to want in consequence of the barbarous excesses of these enemies of Spain. Neither should it be forgotten that before the orders of Count Valmaseda were issued, there were innumerable decrees and proclamations of amnesty and pardon emanating from the captain-general of Cuba, as well as from the governor of the eastern department, with the humane purpose of ending the insurrection.

From the foregoing statements you will be enabled to see that the proclamation so severely and harshly judged was in obedience to a legitimate instinct of defense, and a peremptory necessity of war, loudly called for by the acts of the insurgent hordes.

History abounds in these examples, and it would be derogatory to your intelligence to detain you by citing the governments which, in similar circumstances, have employed like measures in the legitimate defense of their rights, and in favor of the most speedy restoration of the tranquillity of the country. In our own time, during the civil war of which the republic of the United States was the theater, the columns of the brave General Sherman, in their march from Atlanta to Savannah, devastated that portion of the country without warning, leveling whatever they found in their path, driven to such a painful extremity by the supreme necessity of subduing the rebellion, and at once freeing the Union from the horrors of war.

And in so doing, there was certainly no infringement of the principles of the rights of persons, nor of the rules of modern international law, as practiced by civilized nations, and as they were at that time affirmed with noteworthy foresight by the Government of Washington, in the memorable "Instructions for the armies in the field," issued by Mr. Stanton, Secretary of war, during the conflict with the South. This celebrated document, which has the honor of being the first codification of the laws of war, and whose bases are attributed by public opinion to one of the most distinguished jurists of America, says, in Article XV:

"War authorizes the destruction or mutilation of armed enemies and of all persons whose destruction is incidentally inevitable in encounters of arms; it authorizes the capture of all armed enemies and of all enemies useful to their Government or dangerous to the captors; it authorizes the destruction of all kinds of property, the cutting of roads, canals, and other means of communication, the interception of provisions and munitions, the seizure of all that the enemy's country may supply for the subsistence and security of the army," &c., &c.

Article 25 says:

"Those persons are counted as rebels who, in a territory occupied or conquered by an army, rise against it or against the authorities it has established. They incur the penalty of death, whether they may have risen in insurrection singly or in parties more or less considerable, or have been incited to rise by their own government or not. If they are captured, they are not prisoners, nor are they to be treated as such, even when they are discovered and arrested before the conspiracy has attained open rebellion, or before they may have committed any acts of violence."

Whatever authority may be accorded to these "instructions" as an expression of the present views of mankind respecting the mode of warfare between civilized peoples, it is at least certain that the Government of the United States will not disallow these principles; and as the Spanish government is convinced, not only that it has not exceeded them during its contest with the Cuban rebels, but that it has not even fully made use of the means which at other times and by other nations have been declared legitimate, there is cause for surprise that it should be so severely judged, and a pre-emptive found for denying it the same powers and rights as are conceded to other nations in a state of war.

You next treat of the decree of the 1st of April, 1869, issued by the captain-general, in which are declared null and void all sales and conveyances of property in the island of Cuba, made without the intervention of the officials designated by the same decree.

The Secretary of State, Mr. Fish, stated, in fact, to the government of His Highness that he considered this prohibition as contrary to the exercise of the rights of property, and requested that, in order to avoid disputes and controversies which could not but arise if it were carried into effect, the decree might be modified so as not to be applicable to the property of citizens of the United States.

The Spanish government at once took occasion to inform the cabinet of Washington that this regulation was demanded by the existing circumstances of the island, and by the necessity for energetic proceedings against the enemies of peace and public tranquillity; and that, in consequence, it was extremely important to prevent the possibility of comprehending among these not only those who had taken up arms, but also the *émigrés* who fomented the rebellion in foreign countries, from making simulated sales and contracts, which would permit them to continue in possession of their property and to dispose of the proceeds thereof for the support of the insurrection.

In this connection the attention of the Government of the North American republic was called to the well-known fact of all manner of dealings having been carried on in the island after the publication of the decree, without any hinderance; and that the Spanish citizens and those foreigners who obeyed the laws and respected legitimate authority had continued to dispose freely of their property and to carry on all their transactions with increased facility day by day, and without any other requirement than the filling up of a simple form in completing their contracts, by which the authorities might have cognizance of the transfers of real estate, and prevent abuses, criminal concealments, (*ocultaciones*;) and that the measure therefore contained nothing which could be stigmatized as vexatious. So that, as the captain-general observed in his communication of the 26th of March to the Spanish representative at Washington, the Government of the United States should have been completely convinced that up to that time no obstacles nor impediments had been placed in the way of lawful transactions; and that all that was necessary for the legalization of a transaction whatever took no more time than was required for revising the album, which accompanied the instrument, to ascertain that no person whose property was embargoed sought to alienate his estates, an operation which at the most might occupy ten minutes. But, besides these reasons, there is a fact more eloquent still, which is that until now not a single reclamation has been presented in this connection notwithstanding the time that has elapsed.

In entering upon the question of embargoes and of the pretended violation of the treaty of 1795, I desire, before all, for the sake of clearness, to call your attention to the foundation upon which appears to rest the series of claims of this nature presented against Spain by the Government of the United States.

It is indisputable, even for a moment, that neither in the note to which I have the honor to reply, nor in any other document concerning the affairs of Cuba since the outbreak of the insurrection, is there an indication of interference with the legitimate right that belongs to Spain of adopting the measures she may deem proper for effecting the pacification of any part of her territory. It may be deduced from this that in the name of the interests of North American citizens whose persons or property are injured or menaced, and solely by virtue of the protection which your republic owes them as citizens, can the Government of Washington be considered as entitled to complain of and comment upon those acts which, more or less directly, may affect the interests of its countrymen; from which it follows that, when not treating of those who have a right to the protection of the American flag, no reclamation should be made, nor should it be deemed necessary to touch upon matters which, as in this case, belong to our internal government. Granting this, it would seem natural that, before instituting any action founded upon a personal right, the circumstances from which is derived the right thus appealed to, should first be verified, and that the character by which the claimants invest themselves should be sufficiently demonstrated by the means, dissipating any possible doubt which may arise as to its legitimacy. But was in violation of the most logical course, a privilege or an exemption is claimed, reserving until later the proof of the personality of him who demands it; whereas, the legitimate privileges are claimed which are conceded by international law and treaties to foreigners, leaving until after a result is attained concerning the fact of the embargo any demonstration of the character of foreign citizenship upon which the claim is founded, which, without it, would be a usurpation of the immunity which only belongs to the subjects of friendly powers, there cannot fail to follow a confusion of obligations and rights which, looked at in a false light, would induce a palpably unjust interpretation of the acts of the Spanish authorities.

Unfortunately, no other course has been followed by the United States in their reclamations made in favor of those who, without any right whatever, have invoked the North American nationality. The Government of Washington, in its solicitude for its countrymen should not lack its protection, has never paused to examine the legal

macy of the claim upon which it was invoked, and so has permitted the growth of its catalogue of wrongs and of persons aggrieved, which a considerate examination would doubtless have reduced to less dimensions.

In this aspect of the case, the good faith of the United States Government has been imposed upon and made use of by worthless men, whose only object is to create international complications and conflicts. The data and official documents of the Spanish government enable it to make a classification of the greater part of these claimants, reducing them to three classes, namely: 1st, claimants who have never possessed a right to foreign nationality; 2d, individuals who enjoy its benefits, but whose property has never been embargoed; and, 3d, persons to whom, in consideration of their being foreigners, their embargoed estates have been restored on the least evidence.

Moreover, the Government of the United States cannot be ignorant of the fact that the greater portion of the natives of Cuba who have given allegiance to the American flag have done so with the studied intention of making use of it at some future day as a shield for their criminal designs. Many cases might be cited of individuals who have lived in the island of Cuba as Spanish citizens, and did not remember their American citizenship until affairs went against them. These abuses caused the issue of the important instructions concerning the rights of citizenship, communicated by the Department of State of the United States on the 3d of May, 1869, to their consul-general at the Havana, it being noticeable that these instructions were given at the request of the said officer, who continually found himself embarrassed by the reclamations of Cubans naturalized as Americans, who had returned to the Havana and resided there permanently without disclosing their change of nationality; some of them having accepted employments and offices which Spanish subjects are alone permitted to hold.

Lastly, I end my reply to this portion of your note by calling your attention to the circumstance that the reclamations of the Government at Washington for offenses against American nationality are not set forth with precision in respect to the facts and circumstances of the several cases, (the only manner in which they can be discussed and the proper reparation ascertained,) and that they are limited to denunciations in general terms, attested by lists of persons who consider themselves aggrieved, but who are in no way shown to have affirmed their nationality before the courts, or to have been refused a hearing of their demands by the authorities, or in any other form to have sufficiently proved their character as foreigners.

If this be not duly proven, the Government at Washington cannot justly charge that of His Highness, the Regent, with having ignored, in the island of Cuba, the rights which belong to those who have the protection of the American flag, much less with having infringed the treaty of 1795; which point I shall now take up separately. The seventh article of the treaty of 1795, between Spain and the United States, upon which your note rests for declaring illegal the embargo of the property of American citizens, when carefully considered, proves inapplicable to the question both in spirit and in letter. The article is composed of three clauses; the first refers only to the embargo, or detention of vessels, or effects for the use of any military expedition, or for public or private purposes—in a word, the embargo commonly known by the name of *angaria*.* The second does not treat at all of estates or property, but only of the citizen himself, when apprehended or arrested, either for debts or for offenses, and the third treats of the means of defense which shall be guaranteed to him in the foregoing case. We can in no way occupy ourselves with the first clause, since the estates embargoed have not been taken for any of the objects therein expressed, but because the superior authority of the island was convinced, in view of information received from our consuls in the United States, that the proceeds of those estates were being applied to the sustenance and encouragement of the insurrection. And if this be true, can it be maintained that such American citizen, devoted to planning and committing acts hostile to Spain, should be included in either of the cases provided for by the aforesaid seventh article? Is it even rational to suppose that a State would celebrate and ratify a convention with another power, by virtue of which the subjects of one of the contracting parties would enjoy all the exemptions and advantages stipulated for, even in the case of being personally in open hostility and conspiracy against security and public peace? Can a treaty be conceived of whose stipulations would sanction impunity in favor of individuals, who, by their conduct, might compromise the existence of the State? It would not be easy to cite an example of such a convention, framed in opposition to all the principles, not merely of law, but of common sense. Consequently it is not consistent with reason, logic, or prudence that the treaty of 1795 can in any sense limit the power of the contracting governments to provide for the security of their respective territories against the secret plotting of the subjects of either. It may certainly favor the exercise of the rights of subjects against subjects, but not of these against their governments; since otherwise, whatever measures may have been taken, or may be taken in the future, to attack the situation in the island of Cuba at its root, would be baffled, and the enemies of Spain, residing in the United States, would rise shamelessly to aid

* *Angaria*-Retraso forzoso impuesto á la salida de un buque para emplearlo en un servicio público mediante salario ó retribucion.—*Dictionary of the Spanish Academy*.

the insurrection with the proceeds of their property, though now they are not secure of impunity unless sheltered by a recognized right.

As for embargoes, considered in general, the Spanish government does not believe that it deserves censure for making use of them, nor that there is any pretense for attributing to it the originality of the step; since on the 22d of July, 1862, the Secretary of War of the United States, by the authority of the President, issued an order directing the military commanders of Virginia, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, and Arkansas to seize and appropriate all personal and real property in the districts under their command which might be necessary for the supply of their troops, or for any other military purpose. The House of Representatives and the Senate had already approved, on the seventeenth of the same month, a law for the seizure and confiscation of the property of southern rebels, the fifth section of which says, textually:

"Be it also enacted, That in order to insure the speedy termination of the present rebellion, it shall be the duty of the President of the United States to cause the seizure of all the estate and property, money, stocks, credits, and effects of the persons hereinafter named in this section, and to apply and use the same and the proceeds thereof for the support of the Army of the United States."

Your note further treats of such American citizens as have been arrested and held in close confinement, with an accompanying list; adding that, in some cases, the arrests have been followed by military trials, without the privilege of the intervention of counsel or attorneys, or of communication with witnesses, the personal rights and legal protection to which all accused persons are entitled being denied, and that, lastly, what has been done under this head oversteps the bounds, and gives the United States the right to demand reparation from Spain for the injuries suffered by their citizens by reason of the various infractions of the treaty of 1795.

The explanatory list which I have the honor to inclose with this dispatch, stating the causes of arrest and the penalty imposed upon each of the citizens who were apprehended, will demonstrate how little foundation there is for the protest of the Government at Washington.

There is not a single case of sentence, except of those who were apprehended with arms in their hands, and shot as privates, in which the penalty has not been commuted and the accused turned over to their consul, to be sent out of the country.

The Government of the United States affirm, nevertheless, that even in this case the treaty of 1795 has been violated on the part of Spain, forgetting, doubtless, that the stranger who violates the laws of the country in which he lives is denied the protection of that to which he belongs, and consequently puts himself out of the reach of international law, and remains wholly subject to that of the place where he resides.

Your note concludes by expressing in the name of your Government the hope that Spain, recognizing the justice of the reclamations, and taking some proper and convenient steps to ascertain the amount which should come to each claimant, will at once order the restoration to citizens of the United States of such of their property as may be embargoed, as well as the release of those who are still imprisoned, or will cause them to be immediately brought to trial, under the guarantees and with the rights secured by the treaty of 1795.

In presenting such a demand, as well as in seeking to show that the seventh article of the treaty referred to has been violated by Spain, the Government of the United States forgets that, as the embargo is the penalty imposed for an offense, it cannot be rationally pretended that a vindictory proceeding should commence by the remission of the penalty. I have previously had the honor to occupy your attention upon this point, and it is useless to bring forward either the seventh article or the twentieth to prove the contrary.

The Spanish government has a representative accredited near the Government of the United States, and recognized consuls in the greater part of the ports of the republic. There have been many cases in which the captain general of Cuba has caused the American consul at the Havana to be notified when complaints have arisen concerning the embargo of the property of natives of Cuba naturalized as American citizens, that they might justify their political conduct before the authorities in his presence; but the fact is that, up to this time, this has not even been attempted; and, on the contrary, they have pretended that their justification should be made through the medium of the American authorities, as if such an intrusion of the jurisdiction of one state on the dominions of another were possible. Two of them, nevertheless, have exhibited their extreme ignorance by presenting a certificate signed by Don José Miguel Aldama, as president of the so-called Cuban Junta, of New York, and verified before a notary public of that city, to prove that they have never taken part in the operations of the junta. To crown all, this document was presented to one of the authorities of Cuba by the consul of the United States, under instructions, it is said, from his Government. This, however, is not the occasion to comment upon this fact, to which I have called the attention of His Highness the Regent, and instructions have been sent to our representative in Washington. You will find a copy of both documents annexed.

So much concerning the embargoes; as for the American citizens, the very list which you were pleased to append to your note makes it patent that natives of the United States are not concerned, but naturalized Cubans. The former, with very few exceptions, according to the information furnished by the authorities of Cuba, have conducted themselves as honest men who attended to their own affairs, respecting the laws of the country they have chosen for their residence. With regard to such persons, in the exceptional case of the arrest of one of them, the judgment of the courts has been followed by a pardon, (*indulto*), and he has been placed at the disposition of the consul of his nation.

The latter, that is, the naturalized Cubans, have, on the contrary, sought in a foreign nationality a defense against the rigor of the law; they have shown themselves to be arrogant; they have caused trouble, and they have succeeded in creating complications between government and government.

Returning, lastly, to the views which I have previously had the honor to make known to you in reply to your note, and in answer to the allegations therein contained, I have to state that the course of the authorities of Cuba, in the investigation of cases and in the execution of sentences, has been as prudent and as considerate as the extraordinary and anomalous circumstances through which the island of Cuba was passing would allow. This is demonstrated by the circulars of the 3d of May and the 5th of July, 1869, directed to the governors and commanders, strictly enjoining upon them the observance of the most equitable principles in all their acts, and more especially in those relating to subjects of friendly nations. And notwithstanding that the state of insurrection demanded recourse to extreme measures, the superior authorities directed that the necessity should be manifest before taking steps against foreigners, notifying them that in case they should be obliged to effect the arrest of such, proceedings should be immediately instituted according to the gravity of the offense, and information of the facts given to the superior authority; and the facility with which all classes of reclamations were heard became so great, that a simple note to the consuls, even without signature, was sufficient to cause the claims therein presented to be considered and acted upon. The various communications of the consuls to the superior civil governor, conveying their acknowledgments of the attention with which the complaints and reclamations of those they represented had been heard, are a striking proof of this, and are alone a refutation of the accusations which have been preferred. The government holds possession of these documents, and is ready to exhibit them.

To prove that the seventh article of the treaty of 1795 has been infringed, it is necessary that the Government of the United States should designate, with sufficient particularity, the instances in which the convention has been violated; and in order that the Spanish government may do justice to the reclamations of American subjects, it is above all indispensable, firstly, that these should prove their citizenship before the Spanish authorities, and should present their demands in due form in each particular case, since it is not alleged that these requisites have been complied with; and, secondly, that the aggrieved parties should show that they have themselves appeared before some tribunal, or that the consul has made the proper reclamation in their name, and that the Spanish government has failed to make reparation. In any other way, and merely in view of a list of individuals who, for the most part, bear Spanish names and have been regarded as Spaniards, it is impossible, in a legal sense, to know their nationality, and to indemnify them for injuries which are to be imputed only to themselves.

Thus far the embargo in Cuba has been only a preventive proceeding, and its execution a consequence of a purely political measure: it is not based upon any law which ordains the sequestration of property. It is, therefore, no more than an extraordinary means of defense, having for its object to deprive the insurrection of powerful resources for its support. Its execution as a political measure belongs only to the superior governor. The courts of justice thus far are strangers to it, although they decide all questions of right which arise respecting it. To these, therefore, should be addressed the reclamations of those citizens of the United States who claim to have unjustly suffered the embargo of their property.

The formalities above indicated once complied with, the particulars of the several cases mentioned in your note supplied, and the allegations made in support of them duly sustained, the Spanish government will make just reparation to such American citizens as may appear to have been aggrieved.

And, desiring to act under conditions of perfect equity, the government of His Highness will thereupon agree to the appointment of arbitrators named by each of the two nations, to appraise the damages sustained, and to fix the indemnity to be paid therefor.

I improve this opportunity to reiterate to you the assurances of my most distinguished consideration.

PRAXEDES Mo. SEGASTA.

* Desde luego.

[Inclosure No. 1.—Translation.]

MINISTRY OF STATE.

*Rights of naturalized citizens defined.—Important instructions from the Secretary of State.*DEPARTMENT OF STATE,
Washington, May 3, 1870.

SIR: I have to acknowledge the receipt of your dispatch, No. 30, stating that many cases natives of the island of Cuba, after having been naturalized as citizens of the United States, have returned to Cuba, residing there permanently without making known their change of nationality, and that in some cases they have accepted offices which can only be filled by Spanish subjects, and asking for instructions for guidance in such cases, if your official intervention is solicited.

In answer, I have to say that it is clearly impossible to lay down rules to guide proceedings in all the cases which may be presented.

Both native and naturalized citizens are entitled to the same protection when in foreign countries, and both, in such cases, are ordinarily subject to the laws of those countries, and are obliged to obey those laws in the same way as their own citizens. Subjects have to observe them. If they fix their domicile in foreign countries, they are moreover compelled to observe toward the government of that country the duties and obligations belonging to permanent residents.

It is also quite possible that a naturalized citizen may return to his own country to remain there with the evident intention of residing permanently, or that he may accept offices incompatible with his adopted citizenship, or that he may, for a time, conceal the fact of his naturalization, and pass for a citizen of his native land, until some circumstance leads him to claim the intervention of the land of his adoption, or in some other way he may exhibit the intention of abandoning his acquired rights, and resuming his original citizenship, and absolving the government of his adopted country from the obligation to protect him as a citizen while he remains in his native country.

In the cases which come before you, you are to act with great discretion in determining whether those who solicit your interference have, in good faith, maintained their allegiance to the United States, being assured that this Department will sustain you in carrying out the principles of these instructions.

I am, &c., &c.,

HAMILTON FISH.

HENRY C. HALL, Esq.,
Vice-Consul General of the United States at Havana.

A faithful translation from the original. Havana, 17th July, 1870.

RODRIGO TAVIRA,
Government Interpreter.

A copy.

The Secretary,

CESAREO FERNANDEZ.

A correct copy.

[Here follows the rubric of the minister of state.]

[Inclosure No. 2.—Translation.]

MINISTRY OF STATE.

Memorandum of citizens of the United States whose property has been embargoed.

No. 1.—*Don José García Angarica.*—Does not appear to have been embargoed; however, was a certain Don Manuel, expelled from the jurisdiction of Cardenas, of which he was a native, in consideration of his bad political antecedents, and of having gone to a foreign country without a passport.

No. 2.—*Don Joaquín García Angarica.*—His property was embargoed because he was in connivance with the individuals forming the Cuban Junta of New York. Adm. Poor having addressed a communication, on the 14th of January of the current year, concerning the removal of the embargo on his estate, answer was made that proof were shown of the inaccuracy of the data in possession of the government, the recommendation of the United States minister would be complied with, and no action taken of the conspiracy and double citizenship. In February, 1869, this individual passed for a Spanish subject, according to the documents presented in applying for a passport, and in January, 1870, he claimed to be an American citizen.

No. 3.—*Don Inocencia Casanova.*—It is not known to this government that his property was embargoed. Perhaps some reclamation was made of which this government

is ignorant, by reason of his being comprehended in the embargo of the property of his brothers, under the belief that he was identified with them.

No. 4.—*Don Ramon Criado y Gomez, (sic.)*—Of the same nature as the preceding, since a certain Don José Fernandez Criado is the only one embargoed.

No. 5.—*Don Joaquin Delgado.*—Was a standing member of the Cuban Junta of New York on the 7th April, 1869.

No. 6.—*Damford, Rurorton & Co., (sic.)*—It does not appear that their property is embargoed; but they have a reclamation pending before the council concerning their implication in Nuevitas with Don Manuel Marquez, whose estates were embargoed, which reclamation will be disposed of as soon as the information asked for is obtained.

No. 7.—*Don José de la Cruz Gorin y Pinto, (sic.)*—His property was embargoed on account of his being active in New York in favor of the insurrection, and giving large sums to aid it, according to intelligence possessed by this government.

No. 8.—*Don Cristobal Madan.*—Denounced by the consul as belonging to the Cuban Club in New York; his property was embargoed, but the incorrectness of the information having been subsequently proved, the embargo was removed.

No. 9.—*Don Fausta Mora.*—His property was embargoed because the consul in New York ascertained that he had contributed sums of money to the insurrection. His good antecedents having been testified to by persons of recognized loyalty, the embargo was removed, and the fact made known in Washington.

No. 10.—*Don Martin Muecas, (sic.)*—His property was embargoed because of his bad antecedents, and for quitting the island without a passport. He came with the expedition of Narcisca Lopez, in the year 1850, and at present appears to be in New York contributing money to the insurrection. There is no evidence of his American citizenship.

No. 11.—*Don Ramon Rivas y Lamar.*—This individual took part in the original Cuban Junta established in New York, and continues to be identified with the present club. The consul general of the United States in this place (the Havana) was told, on the 19th of February of this year, that if he were proved to be unconnected with the junta in question, and to have taken no part in its operations, his recommendation would have great weight. His good antecedents having been established by persons of recognized loyalty, the embargo was removed, and the fact made known at Washington.

No. 12.—*John C. Rozas.*—It does not appear that this individual's property has been embargoed.

No. 13.—*Moses Taylor & Co.*—It does not appear that their property has been embargoed, and there is only a reclamation concerning a large portion of the embargoed property of Don Antonio Fernandez Bramosio, a member of the Cuban Junta of New York since its foundation, said to have been purchased by them. This proceeding is under examination, to ascertain the legality of the purchase.

A correct copy.

No. 2.

MINISTRY OF STATE.

Memorandum of the citizens of the United States who have been imprisoned, (incomunicados.)

No. 1.—*Don José Vicente Brito.*—Was arrested in this city under suspicion of disloyalty February 12, 1869, and set at liberty on the 14th.

No. 2.—*Don Teodoro Cabias.*—Arraigned for complicity in the assassinations which took place in this capital on the 12th of February, 1869. The case having been abandoned so far as he was concerned, the audiencia decided that he might be proceeded against as a vagrant. The case being opened, the American consul presented himself, and asked that he might be released, alleging that he was a citizen of the United States, and he was given up to him on condition of quitting the country. This individual was a telegraphic operator employed by the government, to which he had taken an oath of fidelity.

No. 3.—*Don Emilio Carada, (sic.)*—Was arrested with several others in Cienfuegos on suspicion of disloyalty, and set at liberty in a few days because no motive was found for proceeding against him.

No. 4.—*Don Lucas A. de Castro.*—Was arrested at Trinidad at the beginning of last year, and sent to the Peninsula as a political exile. He was deeply implicated in the insurrection. He was a captain of volunteers in Trinidad, and resigned a few days before the movement broke out in that district. Neither he nor the American consul at that place made any allegation concerning his citizenship.

No. 5.—*Don Gabriel Suarez de Villar, (sic.)*—Was arrested at Trinidad on the same day as the preceding, and under like circumstances. The American consul demanded his

release, pretending to establish his rights as an American citizen. Proceedings were instituted, and it was shown that the said individual obtained a certificate of American citizenship in 1854. He then went to reside in Trinidad, where he exercised his profession as a lawyer without having competently established his right to practice; was justice of the peace and syndic of the town council. He was prosecuted for having held offices forbidden to foreigners, when he proved that he had renounced his American citizenship. The audiencia of this island made the same decision.

No. 6.—*Don James M. Edwards*.—Was arrested at Manzanillo the 23d of November 1868, and was proceeded against for being in communication with the insurgents. The charge was abandoned, being unsupported, and he was set at liberty the 31st of January, 1869.

No. 7.—*Don Carlos Jemot (sic)*.—Was arrested at Trinidad for being in connivance with the insurgents, and condemned, by a council of war, to imprisonment for life. He was pardoned, turned over to his consul, and went back to his country.

No. 8.—*Mr. Duglass McGregor, (sic)*.—Was arrested at Trinidad, accused of conveying supplies and information to the insurgents, and of having been several times in the encampment. He was sentenced to death. He was pardoned and turned over to his consul, who sent him back to his country.

No. 9.—*Don Thomas Miranda*.—Was arrested at Guanajay for disloyalty, (*infidencia*). He was sentenced to be transported from the island, and in consequence was sent to the Isle of Pines. He produced no documents to show his American citizenship, and only stated that he was a native of Saint Augustine, in Florida.

No. 10.—*Mr. John Rosas, (sic)*.—Arrested in the district of Guanabacoa for an attempt at sedition in the district of Santiago de las Vegas. He was sent to Fernando Po where he escaped.

No. 11.—*Don Alberta Simons, (sic)*.—Was arrested at Puerto Principe, accused of having spoken against the nation in public conversation. A manuscript document was found in his possession highly offensive to the throne of Spain and inciting to insurrection. The consul of his nation in this capital having alleged that he considered his offence (*falta*) sufficiently punished by the imprisonment he had suffered, the case was abandoned, and he was set at liberty, being placed at the consul's disposition.

No. 12.—*Doña Maria Spotuna, (sic), Doña Aurelia, and Doña Elisa Cudlipp*.—Were arrested at Trinidad, accused of giving aid to the insurgents. They were condemned by a council of war, the first and the third to confinement during the existing state of affairs, and the second to ten years' imprisonment. The consul of the United States having made representations in their favor, they were pardoned on condition of leaving the country.

No. 13.—*Don Carlos Polhamus, (sic)*.—Arrested in Santa Cruz del Sur, in the act of communicating with the insurgents. He was tried by a council of war and convicted, and having confessed his crime, was shot. After his execution, a chest was found on board a coasting steamer, containing correspondence from the junta of New York to Céspedes, addressed to this Polhamus.

No. 14.—*Don Sebastian Pintado*.—Arrested at Matanzas for holding meetings of colored people in his house, to whom he read incendiary publications. He was set at liberty, and turned over to his consul to be sent out of the country.

No. 15.—*Don Angel Morales y Armas, (sic)*.—Arrived at this port in the steamer Colombia from New York, where he had become an American citizen, and, upon information that he held a commission from the Cuban Junta, he was arrested and was expelled from the island within three days, and sent to his adopted country.

No. 16.—*Don Juan Alberto Machado, (sic)*.—Was arrested, on arriving from New York for carrying correspondence from members of the junta, and subversive publications. He was set at liberty on condition of leaving the country. Documents were found on him by which he appeared to be an American citizen and a subject of Brazil.

No. 17.—*Don Gregoria Gonzalez*.—Was arrested in this capital for subversive language, and sentenced by a council of war to one year's imprisonment. It does not appear from the evidence that he alleged his citizenship of the United States, neither did the counsel make any representations.

No. 18.—*Don Pedro Pachot, (sic)*.—Was arrested, July 23, 1869, on landing from a steamer that brought him from the United States, for carrying correspondence in violation of the postal regulations, which related to the insurrection, and was set at liberty on the 29th.

No. 19.—*Don José Ponce de Leon, (sic)*.—Was arrested at Cardenas, accused of being an agitator, and was shown to be the ringleader of a rising which was to have taken place in that district. He was transported to Fernando Po. His American citizenship was not shown.

No. 20.—*Don José Maria Ortega*.—His arrest was ordered because of information that he was engaged in a conspiracy in Pinar del Rio. He resided in this capital awhile and was set at liberty. It does not appear that he alleged his American citizenship.

No. 21.—*Don Juan Franco, Portuondo, (sic)*.—Was arrested, with others, in Santiago de Cuba because it was discovered that he was in connivance with the insurgents in the

field. While being removed with the rest to the mill of San Juan, in El Cobre, he attempted to escape, and was fired at by those having him in charge, and was killed. This individual was expelled from Cuba in 1855, and in the following year his wife presented a petition, praying that he might be allowed to return on condition of renouncing his American citizenship, which was refused; but having returned from the United States to this city, he was permitted to remain in Cuba, on condition of making a formal renunciation of his citizenship, which was done upon his own petition.

No. 22.—*Don Agustin Sta. Rosa, (sic.)*—Was arrested in this capital toward the close of 1868, for being implicated in the insurrection, and was brought before a court-martial. Being set at liberty, in consequence of General Dulce's decree of amnesty, he was one of those concerned in the robbery of the steamer *Comanditaria*.

No. 23.—*Don Carlos Speakman, (sic.)*—Was one of the filibusters landed by the schooner *Grapeshot, (sic.)* being taken with arms in his hands, he was shot by virtue of the sentence of a council of war.

No. 24.—*Albert Werth, (sic.)*—The same grounds and the same results as in the preceding case.

No. 25.—*Don Emilia de Silra.*—Was arrested at Nuevitas, accused of being in communication with the enemy when found in the outskirts of that town, and was forced to remove his residence to this capital.

No. 26.—*Don Rafael Estrada.*—There is no evidence that any person of this name has been arrested, and there only appears to be one Don Esteban Estrada, a ringleader, who was pardoned.

No. 27.—*Don Renu Fritot, (sic.)*—There is no evidence that any person of this name has been arrested.

No. 28.—*Don John E. Powers.*—Was arrested at Sancti Spiritus upon indication or having intentionally thrown from the track the train under his charge as engineer, at the very time when a large body of the enemy made an attack on twelve soldiers, on the same line of railway and near the scene of the accident, of whom six were killed and four escaped.

No. 29.—*Don James Tate.*—Arrested at Trinidad for the crime of sedition, (*insidencia.*) Claimed by the consul general of the United States, in this city, as a subject of his nation. Information was asked for from the authorities, and they stated that no such American citizen appears in the registry made by the consul at that place on the 9th of April of last year; that he is a native of the United States, but that he has resided there more than fifty years.

No. 30.—*Don J. A. Schultz, (sic.)*—There is no evidence to show that any person of this name has been arrested.

Havana, July 30, 1870.

The Secretary,
CESAREO FERNANDEZ.

A copy.

[Here follows the rubric of the minister or state.]

[Inclosure No. 3.—Translation.]

SUPERIOR POLITICAL GOVERNMENT OF THE ISLAND OF CUBA—SECRETARY'S OFFICE—
CIVIL BUSINESS.

EXCELLENT SIR: On the 29th of September of last year I ordered the embargo of the property of Don Ramon Rivas y Lamar, a native of Matanzas, who, according to information from the consul of Spain at New York, was connected with the Cuban Club, conspiring against the integrity of the nation. Mr. H. C. Hall, consul of the United States in this place, on the 10th of February, presented a memorandum, calling attention to the embargo in question, and stating that he was instructed by the Department of State to advocate this person's claims, not merely as an American subject, but also because the Department had reason to believe that Rivas was in no way connected with the insurrection. This declaration would have been sufficient to cause the adoption of a favorable decision, especially as the good relations which unite our government with that of the United States led me to give much weight to the recommendations presented in favor of the subjects of that country, as I have demonstrated on repeated occasions; but the same consideration toward a friendly nation made it necessary to establish the justification of the order of embargo pronounced against Rivas.

There is no evidence here that this individual is an American subject; he quitted the Havana with a Spanish passport; he left his property in charge of Don Augusto Claret, and the latter, in a preliminary judicial proceeding instituted by him in Matanzas, sustained the rights of Rivas as a native, making no mention of his having taken out naturalization papers in any other country; so that the said Rivas y Lamar is one of those who, to suit their private convenience, provide themselves with two distinct.

nationalities; and as experience has shown that many natives of the island of Cuba consider their legal or illegal naturalization in the United States as a shield for conspiring against this government or for open rebellion, this circumstance alone would render Rivas suspected, he being a member of the Cuban Club of New York, in which he has shown himself to be an *enthusiastic patriot*, and ready to adopt a third nationality.

The embargo in this case is perfectly regular. A Spanish subject, whose estates are registered as Spanish property, who has not renounced his rights of nationality nor given notice to any authority of his intention to change it, should be considered as a Spaniard, and suffer the consequences of the dualism in the same way as he gained its advantages by concealing it; therefore, from the moment it became known that he formed part of an association organized to disturb the peace of the island, sustaining and furthering the rebellion of a portion of its inhabitants, he became necessarily comprised in the decree of the 20th of April, 1869.

Nevertheless, in deference to the Government of the United States, answer was made to the memorandum of Mr. Hall, informing him of the facts stated above, and adding that if the person interested, whose political views are pretty well known here, should establish that he is not an enemy of Spain, and that he has taken no part in the revolution, whereby the inaccuracy of the information given by the Spanish consul should appear, the case would be taken into consideration.

The Government of the United States ought to be satisfied that it is my desire to receive this justification, since I can show, and your excellency will sustain me, that many persons residing abroad who have reclaimed directly against the provisions of the embargo, presenting justification for their conduct, have been immediately heard and put in possession of all their property, as the embargoes are preventive; in this being the case, there was the more reason for believing that my authority would favorably receive a petition supported and recommended by a friendly government.

Under these circumstances, your excellency will judge of my surprise on receiving intelligence that the consul of the United States, Mr. Biddle, had addressed himself not to my authority, but to the general superintendent of the treasury; and on examination of the documents submitted, which were drawn up by a notary public of New York, instead of being prepared in the Spanish consulate, there was found a certificate from Don Miguel Aldama, as president of the Central Republican Junta of Cuba and Porto Rico, that Rivas y Lamar had not taken part in the revolution.

I do not believe that there is any example of a similar occurrence in the interchange of dispatches between friendly governments, nor can I conceive how an act so opposite to all conventional rules could have taken place.

I would like to know, although the case is very different, since in the struggle in the United States a state of war was declared, how one of the authorities of the Federal Government would have acted on receiving from a foreign consul certificates for J. Davis exculpating some person who was being tried as a rebel. I suppose the result that would have been done would have been the return of the papers, treating them as though not received, although not considering their presentation offensive. I looked these documents, which, not having reached me through any authorized channel, can only serve as a curious and perhaps unique example of the forgetfulness of established customs, but shall make the occurrence known to the government.

Apart from this incident, as the investigations made here show that Don Ramon Rivas y Lamar left the Havana on the 11th of April, 1869, duly authorized as a Spanish subject; that, on the testimony of persons of honor and veracity, he stood high in public estimation, and has filled several offices to the general satisfaction, without being thought disaffected to the Spanish government; and that, on the other hand, Spanish residents in New York give him credit for good conduct, I have determined to raise the embargo on his property.

I state this to your excellency for your information and such action as you may deem proper. May God guard your excellency many years.

HAVANA, 28th of July, 1870.

ANTONIO CABALLERO

His Excellency the MINISTER OF THE COLONIES.

[Inclosure 4.No.—Translation.]

SUPERIOR POLITICAL GOVERNMENT OF THE ISLAND OF CUBA—SECRETARY'S OFFICE

MOST EXCELLENT SIR: In a communication of this date I inform your excellency of the singular presentation, to the general superintendent of the treasury, of certain documents relative to the embargo of the property of Don Ramon Rivas y Lamar. At the same time, and in the proper manner, others were submitted on the part of Don Francisco Mora by the consul general of the United States, Mr. Biddle, to establish that he had taken no part in the Cuban insurrection.

The considerations which I advance to your excellency with respect to the former are also applicable to Mora.

Far from there being any official proof that this individual is an American subject, there is on record in his case a statement presented in his name by Don Juan J. Jerome, in which he asks to be supplied with a certified copy of the will of Don Maximo José, his father, without the certificate of marriage, as he would be obliged to make use of it abroad. The application was signed on the 18th of January, 1870; and if Mora at that time considered himself a foreigner in the United States, he contradicts his assertion that he was naturalized there, or rather proves that he is one of the many Cubans who, for their personal ends, provide themselves with two nationalities, and make indiscriminate use of the one most convenient. His asking for a document in which his marriage is not shown, also gauges the amount of respect it merits under the laws of either country. I would have wished that the preventive embargo upon his property, imposed by me on the 18th of February, should be approved and justified, as levied on a Spaniard residing abroad; but, in view of your excellency's information, which modifies that furnished by the consul at New York, I have decided to remit the said embargo, and inform you of it, that the proper action may be taken.

May God guard your excellency many years.

HAVANA, 28th of July, 1870.

ANTONIO CABALLERO.

His Excellency the MINISTER OF SPAIN IN WASHINGTON.

A copy.

The Secretary,
CESAREO FERNANDEZ.

APPENDIX B.

[Translation.]

MINISTRY OF STATE,
Madrid, September 15, 1870.

SIR: I have the honor to make known to you that, according to a communication which I have received from the captain general of Cuba, dated the 12th of August last, the American citizen John Powers, who figured in the memorandum annexed to your note of the 26th of July ultimo as imprisoned in Sancti Spiritus, was set at liberty on the 18th of May of this year, and is at present residing in Trinidad.

I improve this opportunity to reiterate to you the assurances of my most distinguished consideration.

PRAXEDES Mo. SAGASTA.

The MINISTER Plenipotentiary of the UNITED STATES.

APPENDIX C.

[Translation.]

MINISTRY OF STATE,
Madrid, September 29, 1870.

SIR: In continuation of the statement I had the honor to make to you under date of the 15th instant, I have to-day to add, referring to a dispatch from the captain general of Cuba, of the 24th of August ultimo, that, according to a report from the deputy governor of Trinidad, Mr. J. A. Schultz, who figures in the memorandum which accompanied your note of the 26th of July as a prisoner, is not nor has ever been under arrest, the American vice-consul in that city stating officially that he has no information in the matter, and knows nothing about that person.

As for Mr. James Tate, who also figures in your memorandum, he was arrested on the 9th of April last, for being implicated in a case of disloyalty, (*infidencia*), and ordered to undergo precautionary detention in his own house on the 5th of the following month, where he remained till the termination of the trial. It is to be noticed that he did not allege his American citizenship, doubtless because he had been a resident of Trinidad for more than forty years, and that his name does not appear in the list previously furnished by the American vice-consul to the government authorities.

I improve this opportunity to reiterate to you the assurances of my most distinguished consideration.

PRAXEDES Mo. SAGASTA.

The MINISTER Plenipotentiary of the UNITED STATES.

APPENDIX D.

Private.]

SAN ILDEFONSO, September 25, 1870.

MY DEAR SIR: A careful perusal of your note of the 12th instant, in reply to mine of the 26th of July last, leaves me in doubt as to the meaning of the last paragraph. Inasmuch as I attach great importance to the correct appreciation of the phraseology in question, I will thank you to inform me whether I am right in understanding you to say that arbitrators may be now appointed to fix the indemnity for damages alleged in my note to have been sustained by American citizens.

Trusting that I have correctly interpreted your meaning, and that thereby the questions presented may be speedily put in the way of adjustment, I shall await your reply with solicitude.

If you will kindly send your answer to the legation in Madrid it will be promptly forwarded to me here.

Sincerely yours,

D. E. SICKLES.

His Excellency Sr. Don PRAXEDES MO. SAGASTA,

Jefe, Jefe, Jefe, Madrid.

APPENDIX E.

[Translation.]

Private.]

MINISTRY OF STATE.

MY ESTEEMED GENERAL: With much pleasure I hasten to reply to your favor of the 25th, concerning the meaning which should be given to the last paragraph of my note of the 12th instant, in answer to that which I had the honor to receive from your legation dated the 26th of July.

In that paragraph the Spanish government stated that, desiring to proceed in the matter of the reclamations in a spirit of perfect equity, it will accept the designation of arbitrators when the claimants shall have complied with the previous formalities to which the preceding paragraphs refer, and any American subjects may appear to be actually injured. The formalities which Spain desires to see complied with before the American citizens who present the reclamation are explained in my note referred to; they are to establish their status as North American citizens before the Spanish authorities; they are to make their demands in due form in each particular case; those who now allege that they are aggrieved are to establish that the necessary reclamations have been presented by them personally before some tribunal, or that the consular authorities have done so in their name, without the same having been considered by the Spanish government. This procedure having been conformed to, if it appears that they have been unjustly injured in their interests or in their rights, then the arbitrators, named above, will proceed to estimate the damages sustained and fix the indemnity which is to be paid. With this explanation, I think, will be dispelled the doubt you express to me concerning the meaning of the paragraph cited; but if you should desire any explanation respecting that or any other of my note, I will take the greatest pleasure in making it.

I am, &c.,

PRAXEDES MO. SAGASTA.

Sr. Don D. E. SICKLES.

SEPTEMBER 27, 1870.

APPENDIX F.

LEGATION OF THE UNITED STATES,

Madrid, October 14, 1870.

SIR: The reply to my note of the 26th of July last, which your excellency has done me the honor to address to me, under date of the 12th ultimo, was received, with its inclosures, at this legation on the 13th. I have also had the honor to receive the several supplemental communications on the same subject addressed to me by your excellency on the 15th and 20th of the past month. After giving the most attentive consideration to the arguments and conclusions presented therein, I regret to find that they do not appear to answer the reasonable and just representations I had the honor to submit to your excellency in obedience to the instructions of my Government. It will, perhaps, be useful to recapitulate the principal subjects to which the attention of your excellency was invited in my note of the 26th of July last. These embraced—

First. A reference to certain proclamations and decrees emanating from the superior civil and military authorities in Cuba, which, in the judgment of my Government, put in jeopardy the persons and property of peaceful and law-abiding citizens of the United States within the limits of that territory.

Second. The remonstrance made by direction of the President against the execution of those orders and decrees in a manner prejudicial to the rights belonging to American citizens within Spanish jurisdiction.

Third. A statement of the grievances of certain citizens of the United States, who, in the execution of the decree of embargo, had been wrongfully deprived of real and personal property of great value, in violation of international law, and of the provisions of Article VII of the treaty of 1795 between the United States and Spain.

Fourth. A request for the restoration to the aggrieved parties of their embargoed estates.

Fifth. A further statement of injuries suffered by certain other American citizens arrested and imprisoned without sufficient or probable cause, some of whom had been unreasonably detained for a long time without trial, and others subjected to extreme penalties without due process of law, contrary to the stipulations of the aforesaid treaty.

Sixth. A further request that the citizens of the United States so held in custody be released, or immediately tried by a court of justice in the manner provided for by the said convention between the two nations.

Seventh. Reclamations for indemnity to citizens of the United States whose property has been arbitrarily seized and appropriated by the Spanish authorities, and likewise to those who have suffered personal injuries by reason of unjustifiable detention and punishment.

Eighth. A suggestion that the respective governments appoint agents to sit in Washington, to ascertain and fix the sum which the claimants should severally receive in compensation for the damages they have sustained; and—

Ninth. The earnest desire of the President, in the interest of the continued good understanding the United States Government wishes to maintain with Spain, that His Highness the Regent would delegate to the representative of Spain in Washington, or to some one of its public agents in the United States or Cuba, the needful power to arrange with the Government of the United States the class of questions so constantly arising in Cuba between the two countries, of which numerous examples are found in the recent correspondence between this legation and the ministry over which your excellency so worthily presides. The President has observed with regret that no response is made to this last-mentioned appeal to the friendly sentiments of the government of His Highness the Regent. Until quite a recent date certain extraordinary powers have been vested in the Spanish minister at Washington, authorizing him in conjunction with the superior political authority in Cuba to adjust questions incident to the intercourse between that island and the United States. And although these means have not always proved effectual for the prevention or settlement of controversies growing out of the peculiar condition of affairs in Cuba, the expedient has not unfrequently been found useful in facilitating the more prompt and satisfactory arrangement of questions that might otherwise have attained larger proportions. It is true that Mr. Roberts, in his note under date of the 24th of June last, informing the Secretary of State that the government of His Highness the Regent had withdrawn from the Spanish legation in Washington the special powers it had before exercised with reference to this particular class of subjects, gave as the reason for this modification of his instructions that, in the judgment of the Spanish government, the improved situation of affairs in Cuba rendered the continuance of these faculties no longer necessary. This announcement would have been more satisfactory to my government if it had been accompanied by some assurance that the extraordinary measures adopted by the authorities in Cuba, purporting to have for their object the pacification of the island, had likewise been countermanded or revoked. It is notorious that the struggle for independence is still maintained by the insurgents, and if their strength be measured by the force employed and understood to be in preparation to be employed against them, it is reasonable to assume that some time must elapse before the contest can be terminated. The President had, therefore, indulged the hope that while the Spanish authorities in Cuba were clothed with apparently unlimited power over persons and property in that colony, a corresponding discretion, with appropriate instructions, would be given to those authorities, enabling them to remove just causes of complaint on the part of the Government of the United States when their citizens are wrongfully or inadvertently injured in the execution of orders and decrees called forth by the civil commotion unhappily afflicting a Spanish possession so contiguous to the United States, and with which our intercourse is so constant and extensive.

Nor can the Government of the United States be otherwise than painfully impressed by the action of the Spanish government in the matter of the arrest and unreasonable detention in close custody of citizens of the United States without trial; and likewise, concerning the restoration of property seized and taken from American citizens without sufficient cause shown, and in violation as well of international law and of the ordinary practice of nations, as of Article VII of the treaty of 1795 between the United States and Spain. I do not now address myself to the question of indemnity in these cases, nor to the inquiry whether acts of spoliation upon the property of American citizens are contrary to the provisions of the treaty of 1795; these propositions will be

considered presently in their proper order. I refer rather to the request made in the name of my Government that the property of certain citizens of the United States, heretofore designated with all needful particularity, arbitrarily taken from them without authority of law or judicial inquiry, should be restored to the possession of its rightful owners; and also to the further request that citizens of the United States, whose nationality is affirmed by my Government, arrested and held in close confinement in Cuba without trial, be either at once released or allowed a fair hearing before a judicial tribunal, in order that their innocence or guilt may appear.

My Government has not overlooked the consideration that involuntary injuries may sometimes happen to individuals in critical times, when the exigencies of a political convulsion, rather than the requirements of justice or the maxims of law, control the action of the public authorities. Ample allowance has been made likewise for the indiscretion of subordinate military and municipal officers, whose ill-directed zeal cannot always be regulated. Nevertheless, the President could not doubt that when the attention of the government of His Highness the Regent should be called to such of those occurrences as had involved serious injuries to American citizens, sufficient reparation would be promptly accorded.

Instances have no doubt occurred of Spanish subjects, exiled for political reasons from Cuba, who have forgotten, in the ardor of a desire to promote the independence of their native land, their obligation to obey the neutrality laws of the country whose hospitality they enjoyed. And although it must be confessed that history abounds in examples of similar indiscretion on the part of exiles who have afterward been welcomed home again as the benefactors of their country, yet the Government of the United States, so far from yielding to sympathies which might have excused a more lenient course, has rigorously exacted from these unfortunate offenders the strict penalty of their illegal enterprises.

The removal of the embargo in certain cases referred to by your excellency, where it appeared that the owners were foreigners, carried with it the admission of a right to indemnity. The release of property wrongfully taken and detained does not atone for the injury done. As to the reclamations in all such cases at least, it is manifest that the preliminaries named by your excellency are already complied with, the nationality of the parties having been satisfactorily shown to the Spanish authorities, and the application to them for redress having had no other result than the mere release of the estates without compensation for the damage sustained. These observations are likewise applicable to the instances in which prosecutions inconsiderately begun have been afterward abandoned and the parties discharged from custody upon representations made by American consuls. The reparation is incomplete without indemnity and the innocence and nationality of the accused seem to have been acknowledged.

I am not unmindful of the suggestion offered by your excellency that, the embargo being a penalty for an offense, the vindication of the accused cannot begin with the remission of the sentence. To this it may be replied, that a party should not be punished for an alleged crime before he is arraigned. Your excellency admits that these embargoes in Cuba are not based on any law which sanctions the sequestration of property; that the courts of justice have thus far been strangers to these proceedings, as that they have been enforced only by the executive authority. And if it is found difficult to reconcile the restoration of property to its owner with a justification of the act of seizure, the task will not be easier when it is undertaken to show that an offense has been committed when no law has been transgressed, or that the punishment which should only follow the judgment of a legal tribunal can be justly inflicted without a trial or even an information presented to any court having cognizance of misdemeanors. With reference to the request of the President, that American citizens imprisoned in Cuba upon mere suspicion of an intent to offend the laws should be either released or brought to trial under the guarantees and with the rights secured by the treaty of 1795 to persons charged with crime, your excellency observes that it is patent on the list of names of those heretofore arrested, appended to my note of July 26, that they are not natives of the United States, but naturalized Cubans. The Government of the United States cannot discriminate between native-born and adopted citizens of the republic in demanding equal and due respect for all alike, whether at home or abroad. When an adopted citizen of the United States returns temporarily to his birth-place, whether called there by ties of affection for parents and kindred, or to give needful attention to business affairs, or by reason of infirmities or bereavement, or for any legitimate purpose, he retains his acquired nationality unimpaired, and with it the right to the protection of his adopted country, unless he voluntarily resumes his former allegiance. This principle has been consistently asserted by the Government of the United States from the beginning of its history. In the early part of the present century the American rule on this subject was maintained by the United States, even at the cost of war with one of the most formidable of the European powers. England and Prussia have signified their adhesion to the same doctrine, and so general is the acquiescence of other powers in this just view of the right of expatriation, that it may now be regarded as definitely engrafted upon the code of international law. It is true that when either native or adopted citizens of one country enter the jurisdiction of another

they are bound to obey the laws and respect the sovereignty of the nation whose hospitality they enjoy; and that for any offense they may commit they are amenable to the same penalties that might be lawfully imposed upon them if they were citizens or subjects thereof.

On the other hand, this duty of obedience to the laws, and respect for the authorities of a foreign commonwealth in which a stranger may find himself, is associated with another corresponding obligation, no less imperative on all governments, which is, that their authority shall be exerted, when necessary, for his protection, and that, in the event of his being accused of misdemeanor, he shall not be unreasonably detained, nor denied a fair and impartial trial before the established tribunals of justice. With regard to the citizens and subjects respectively of the United States and Spain, their rights and duties within the territory of each other are amply defined in this identical sense by Articles VI, VII, VIII, IX, X, XI, and XX of the treaty of 1795, to which I have the honor to invite the attention of your excellency.

Your excellency seems to have assumed not only that naturalized citizens of the United States of Spanish birth, who have again placed themselves within the territory of Spain, have no right to the protection of their adopted country; but also that all persons within Spanish jurisdiction, bearing Spanish names, are Spaniards. These assumptions have frequently betrayed the authorities of Cuba into mistakes prejudicial to the interests of individuals and embarrassing to both governments. There are many thousands of native-born Americans whose names are of Spanish origin. Most of them belong to families originally residing in the States of Louisiana, Florida, Texas, California, Nevada, and Colorado, and in the Territory of New Mexico, all of which, as their names suggest, were formerly Spanish settlements. Indeed it may be said that nearly all of the surnames known in the United States, although appertaining to families who have from generation to generation been citizens of the republic, are of European origin, and were borne by ancestors who had migrated from one or another of the European states. So that your excellency will at once see how fallacious is the inference that persons coming from the United States who have European names are not Americans. Nor can it be taken for granted, without great risk of error, that naturalized citizens of the United States who bear Spanish names have been Spanish subjects, and much less that they are natives of Cuba. A very considerable number of persons of Mexican, Peruvian, Chilean, Brazilian, and Colombian birth, not to mention the inhabitants of other North American states, have become citizens of the United States. Your excellency will therefore acknowledge, I am sure, that there is no presumption to be raised against the American nationality of the list of aggrieved persons I have transmitted because many of their names are Spanish; nor, I trust, will that circumstance be deemed any longer sufficient to justify the demand of other evidence of their nationality than the official affirmation of the Government of the United States that they are American citizens.

My Government receives with satisfaction the testimony kindly borne by your excellency to the good conduct of the American-born residents in Cuba; and I am sure the President would be glad to convince himself of the accuracy of your excellency's impression of the indulgence represented to have been uniformly extended to them by the authorities of the island.

I regret to have occasion to observe, however, that in numerous instances Americans have been arrested without cause, and when, after months of painful imprisonment, some of them have been released, no proof of their misconduct having appeared, they have been expelled from Cuba with serious pecuniary loss; and for such arrest, confinement, and expulsion, they have an indisputable claim to indemnity. Among these cases may be mentioned, for example, those of James M. Edwards, Dr. A. T. Simmons, John E. Powers, F. A. Schultz, and James Tate.

For the sake of illustration I may cite the particulars of one or two of this class of cases, taking for this purpose those especially referred to in your excellency's supplemental note of the 20th ultimo, and whose claims to indemnity do not appear to be recognized. Mr. F. A. Schultz, an American contractor, engaged in furnishing cross-ties to the Havana Railway Company, was arrested at Madruga, August 25, 1869, charged with having said, in a conversation about the insurrection, that he "would bet \$200 it would not terminate, because it was gaining ground;" and that in speaking of a patriotic ball to be given he remarked that "for that purpose he would give nothing, but that he would do so for the poor." Certain marks tattooed on his arm were also regarded as suspicious. Mr. Schultz was at the time ill and under treatment for a bronchial affection; he was nevertheless hurried away, refused permission to take with him a change of clothing, or even necessary medicines, and was placed in close confinement in a damp cell. The United States consul at Matanzas, in reporting the case to his Government, remarks: "It seems incredible that any one should be subjected to such harsh treatment on charges so trivial, or that what he is alleged to have said could be tortured or construed into subversive language." The United States consul general at the Havana submits the following suggestions to the Secretary of State with reference to the arrest of Schultz: "I wish," says Mr. Plumb, "to call your special attention to this case as illustrating the insecurity that now exists for foreigners

throughout the interior of this island, away from the immediate protection of the chief authority, and the danger they are in of arrest upon unfounded charges, instigated by the prejudice or malevolence of ignorant and vicious persons. The case is one that appears to demand that redress should be made." In the supplemental note, dated the 20th ultimo, which I had the honor to receive from your excellency, it is stated upon the authority of a dispatch from the captain general of Cuba, of the 24th of August ultimo, that, "According to a report from the deputy governor of Trinidad, Mr. F. A. Schultz, who figures as a prisoner in the memorandum which accompanied my note of the 26th of July, is not, nor has ever been, in arrest, the American vice-consul in that city stating officially that he has no information about the matter and knows nothing of that person." If these inquiries had been made at Madruga, where the arrest was made, or of Mr. Hall, the United States consul at Matanzas, who reported it, or of the consul general at the Havana, who brought the case officially to the notice of the captain general in September of last year, the investigation would, perhaps, have been more successful than could have been expected in Trinidad.

The case of Mr. James Tate is not less instructive. The United States consul at Trinidad de Cuba, in a dispatch dated May 1, 1870, states that Mr. Tate is an American-born citizen, about seventy years of age, who has been in ill health for many years past; that he bears an excellent reputation in Trinidad de Cuba, where he has resided more than fifty years; that he was arrested on April 30th last, at night, thrown into prison, where he was held *incomunicado*; no reasons were given for the arrest, which made a profound impression in the city, where his high character and very reserved disposition were well known. The consul interceded repeatedly with the governor and the fiscal in the hope of obtaining at least some limit to the close incarceration of the venerable and infirm person, as it was apprehended that the confinement and disgrace would prove fatal to him in his feeble condition. The consul reports that the fiscal does not hesitate to state "that he is convinced of the innocence of Mr. Tate of the charge against him, but that all the usual formalities of *incomunicacion*, trial, &c., may be gone through with before he can be released." In which your excellency may see another instance of that amplitude of powers for acts of severity and the lack of authority to alleviate them, which unfortunately distinguishes the administration of affairs in Cuba. It further appears, by a subsequent report from Mr. Fox, the consul, dated May 27th ultimo, that Mr. Tate having become quite ill he was removed, upon the advice of the physician, after nearly a month of cruel imprisonment, to his own house; and according to the latest official information in the possession of this legation, dated June 8, the trial had not then taken place. I do not fail to take note of the statement communicated in your excellency's note of the 20th ultimo, that Mr. Tate was "implicated in a case of disloyalty and ordered to undergo precautionary detention in his own house on the 5th of May, where he remained until the termination of the trial." I should have been under additional obligation if your excellency had been so good as to inform me when the trial took place, and the result of it, so far as Mr. Tate is concerned. It was not my purpose in the note I had the honor to address to your excellency on July 3d, when referring to the proclamation of General Valmaseda, to make any representation concerning it, as it was known to have been revoked by superior authority; the reference was merely introductory to the subjects which it was the object of that communication to bring to the notice of the Spanish government, and to show, in connection with other decrees and orders, the general character of the measures taken by the authorities in Cuba, which seemed liable to be enforced in a manner prejudicial to the persons and property of citizens of the United States. While I shall, therefore, excuse myself from replying to the observations of your excellency in regard to Count Valmaseda's order, I must at least express my dissent from the observation that precedents for it are found in the conduct of hostilities by the Government of the United States in suppressing the late rebellion. No life was sacrificed by the Union forces; that struggle save in open and fair combat. Prisoners of war were paroled or exchanged, or, if held, were treated according to the usages of war. There was no appropriation or destruction of property not immediately and necessarily incident to the movement of armies in the field. While care was taken to respect the persons and effects of foreigners domiciled within the theater of military operations, if these were inadvertently injured their right to reparation was promptly acknowledged. The citations given by your excellency from the "Instructions for the Armies in the Field" issued by Mr. Stanton, Secretary of War during the conflict, do not in any manner justify the style of war embodied in Count Valmaseda's order. The fifteenth article which is quoted, is a concise statement of the rights of armies in the field in time of war, which each party to the contest may lawfully exercise, subject to the reclamations of other nations when the persons of neutrals suffer injury or their property is appropriated or destroyed. The eighty-fifth article, likewise cited by your excellency, applies to the inhabitants of conquered territory, occupied by an invading army, who are in arms against it or against the authorities it has established. If the American compilation is entitled to the honor your excellency accords to it of being the first codification of the laws of war, Count Valmaseda's order must have found its inspiration in

another epoch, when public opinion had not imposed upon belligerents the amenities of civilization.

The allusion made in my former note to the decree of April 1, 1869, declaring null and void all sales and conveyances of property in the island of Cuba made without the intervention of certain officials, was likewise confined to a mere enumeration of that and other decrees of the same character, which appeared to disregard considerations of interest and convenience to foreign traders having large transactions in the island that should not have been overlooked by the authorities of an important commercial dependency. The views of the Government of the United States in regard to the decree of April 1, 1869, have already been conveyed to the government of His Highness the Regent.

It is, perhaps, unnecessary to pursue the discussion of the true construction and meaning of the seventh article of the treaty of 1795, since it appears to be conceded by your excellency that the property of foreigners is not properly subject to embargo in Cuba; and that the Government of the United States, in asking that the estates and effects of American citizens which have been seized and detained by the authorities in that island may be restored, with just compensation for the losses sustained, only claims "the legitimate privileges which are accorded by international law and treaties to all foreigners."

Moreover, if the classification your excellency has made of these reclamations, based upon the data and official documents in the possession of the Spanish government, shall be found to agree with the testimony on the part of the claimants ready to be produced by my government, and much of which has already been submitted through the consul general at the Havana to the authorities in Cuba, there should be no difficulty in disposing of these claims at once by the prompt and friendly action of the two governments. It is only necessary that the evidence upon which your excellency relies be transmitted to the representative of Spain in Washington, and upon a comparison of the papers and proofs in the hands of the two governments the merits of the several claims for the restoration of the property of American citizens alleged to have been embargoed may be easily and satisfactorily determined.

It would be manifestly useless to engage in further argument upon cases properly belonging to the second and third classifications presented in the reply I have had the honor to receive from your excellency. These are said to comprise the cases of American citizens "whose property has never been embargoed," and of others "to whom, in consideration of their being foreigners, their embargoed estates have been restored to them on the least evidence." With respect to the latter, their American nationality having been already admitted by the Spanish authorities, it only remains that the indemnity to which they are entitled for the loss of the use and income of their property, and for the damage it may have suffered while out of their control, should be ascertained and paid. In regard to the first classification, that is to say, those "claimants who have never acquired a foreign nationality," the Government of the United States will not be found disposed to extend its protection to persons who have not the right to invoke it. It is to be presumed, until the presumption is overcome by proof, that aliens who have deliberately renounced, after an uninterrupted residence of five or more years within the territory of the Union, all allegiance to any other government, and have thereupon become citizens of the United States, are sincere in their solemnly avowed purpose. If it shall be made to appear that any one of the claimants in whose behalf the government of the United States intervenes is not a citizen thereof, or, having been naturalized in conformity with its laws, has by any act of his own forfeited his acquired nationality, or that he has voluntarily relinquished it, your excellency may rest assured that the case of such claimant will be dismissed from the further consideration of the American Government. The Government of the United States, having satisfied itself that the parties in whose behalf reclamations have been addressed to the government of His Highness the Regent are entitled to claim the protection due to American citizens, awaits the production of such proofs as may be exhibited on the part of the Spanish government to show that such protection is not rightfully solicited and granted.

Although, as I have already remarked, the admission of your excellency that it is unnecessary to rely upon the special stipulations of a treaty to exempt a foreigner from the operation of the decree of embargo renders it superfluous to proceed with the discussion of the seventh article of the treaty of 1795 in its relation to that proceeding, I must not refrain from expressing my dissent from the construction given by your excellency to that article. The first clause is the one which relates directly to the questions now under consideration; it is as follows: "And it is agreed that the citizens or subjects of each of the contracting parties, their vessels or effects, shall not be liable to any embargo or detention on the part of the other for any military expedition, or other public or private purpose whatever." Your excellency contends that the estates embargoed have not been taken for any of the objects expressed in the clause cited, and that therefore it has not been violated. If it is meant that the property embargoed has not been taken or detained for "any military expedition," and that consequently this provision of the treaty has not been contravened, I must remind your excellency that the prohibition extends to every possible "public or private purpose" to which an

embargo may be applied. The embargo enforced in Cuba is described by your excellency as "an extraordinary means of defense," adopted by the authorities "to deprive the insurrection of powerful resources." It is, then, a military measure, intended to strengthen one party to a conflict and weaken the other. It would therefore seem to be fairly embraced in the particular prohibition relating to military operations, as it is certainly comprehended in the general interdiction of embargoes for any "other public or private purpose whatever." Your excellency is pleased sometimes to regard the embargo in Cuba as a punishment for a crime—that is to say, a judicial act; at other times your excellency describes the proceeding as only a preventive measure of a purely political character; and, again, it is called an extraordinary means of defense, having for its object to deprive the insurrection of resources. But a further and more practical demonstration of the character of the embargo in Cuba is found in the decree of His Highness the Regent, dated on the 12th instant and published in the *Gaceta* of yesterday. It is therein provided that the proceeds of the sales of embargoed property in Cuba are to be applied toward the support of the government of the colony for the current year. Examined in any aspect, whether military, political, or legal, no justification has been found for the manner in which the executive authorities in Cuba have sequestered the property of American citizens. If the object is to punish offenders against the laws, be it so; then the accused are entitled to a judicial hearing before judgment is pronounced against them. Yet it is confessed that the courts of justice have not been consulted, and that no law authorizes these acts of confiscation. And if by a measure of defense or prevention, whether political or military, it is meant that in order to diminish the means of the insurgents and to augment the resources of the Spanish treasury, the property of citizens of a friendly nation, not residing within Spanish jurisdiction, may be seized and sequestered, I must insist that the mere statement of the case discloses a palpable violation of the immunity belonging to the property of aliens, from which a right of release and indemnity follows as a matter of course.

The second clause of Article VII declares that "in all cases of seizure, detention, arrest for debts contracted, or offenses committed by any citizen or subject of the party within the jurisdiction of the other, the same shall be made and prosecuted in order and authority of law only, and according to the regular course of proceedings established in such cases." And your excellency proceeds to ask if it can be maintained that American citizens, planning and committing acts of hostility to Spain, should be allowed the privileges and exceptions contained in the seventh article. To that inquiry it may be replied that if American citizens, found within Spanish jurisdiction, violate the laws of Spain, they are amenable to the penalties prescribed therein and their guilt shall be established, after a fair and impartial trial in a court of justice. And if American citizens or others within the jurisdiction of the United States, plan and set on foot any military or naval expedition against Spain, they commit an offense not against the laws of Spain, to which they do not owe obedience, but against the laws of the United States, for which they may be prosecuted and punished, on complaint being made by the Spanish government or on its behalf; and of the balance and good faith of the United States in the enforcement of their laws prohibiting such acts of hostility against a friendly power the government of His Highness the Regent has had ample proofs.

An arbitrary seizure of the property of an American citizen by the public authorities of Spain, either civil or military, whether taken for political or warlike purposes, is precisely the act prohibited by the seventh article of the treaty of 1795. That act is best understood in its letter and spirit when the several clauses are appreciated in whole. Its obvious purpose is to guarantee to the citizens and subjects of the one party within the territory of the other complete immunity for their persons and property from arbitrary levies, seizures or detentions on any pretence whatever; and likewise to secure to the citizens or subjects of both nations within the territory of each all the protection and safeguards that belong to the administration of justice under a government regulated by law. Your excellency, in the course of some general observations on the subject of embargoes, appears to find an analogy between the decree promulgated by the captain general of Cuba and the act of Congress approved July 13, 1862, for the confiscation of the property of persons in rebellion against the United States. To analyze these two measures and point out the very numerous and essential particulars in which they differ as well in substance as in procedure, would extend to a note to an inconvenient length, and it is believed that a brief reference to two or three of the many features which distinguish them will be sufficient. The act of Congress is a law, and is based on the precedents found in the legislation of constitutional governments; the decree of the superior political governor is the arbitrary act of an executive officer whose authority seems to be undefined. The act of Congress is executed only by the courts of justice, in conformity with the maxim of a humane code which declares that no person can be deprived of life, liberty, or property without the judgment of a judicial tribunal; the decree is enforced at pleasure, *ex parte*, by the government and even by subordinate executive officers of districts, without the intervention of a court. The act of Congress applies only to the property of persons who commit within

the territory of the United States the offenses denounced by the act; the decree is executed indiscriminately, as well for acts done beyond as within Spanish jurisdiction. And, finally, not to make the enumeration tedious, the act of Congress applies only to offenses committed after the enactment of the law, while the Spanish decree declares on its face that its penalties shall be visited retrospectively for acts done before its promulgation. Nor am I able to see the coincidence your excellency discovers between the decree of embargo and the order of the American Secretary of War dated June 22, 1862, directing the commanders of armies to appropriate within the theater of operations whatever they found necessary for military purposes. This necessity of war is recognized by the usage of nations, and when the property of aliens is taken under such circumstances, the right of indemnity is never denied. At the beginning of the American war the parties to the contest were formally recognized by Spain as belligerents, and in the order your excellency cites the United States Government only exercised a right belonging to a belligerent. When the conflict in Cuba, which began two years ago, shall acquire the same character, the parties to it may appeal to the laws and precedents of war to justify their acts. If I do not enter upon an examination in detail of the memorandum of particular cases inclosed with your excellency's note of the 12th ultimo, it is because that duty may be more satisfactorily performed after it shall be determined where the papers and proofs in the several cases may be most conveniently compared and revised. I should not, however, fail to remind your excellency that the case of Mr. Joseph Hernandez, a naturalized citizen of the United States, residing in the State of New Jersey, set forth in my note of the 26th of July, whose property was embargoed February 24, 1870, is not noticed in your excellency's reply, nor in the memorandum that accompanied it.

I have now to consider the conclusions reached by your excellency in relation to the mode of procedure that should be followed in presenting to the Spanish government the several reclamations made by the Government of the United States. Your excellency desires: First, that each claimant shall state his grievance in due form and detail; second, that his American nationality shall be proved before the Spanish tribunals; third, that it shall appear that the claimant has applied for redress to some Spanish tribunal, or that a consul of the United States has intervened in his behalf, without obtaining satisfaction from the Spanish authorities.

And your excellency is pleased to declare that when these preliminaries shall have been complied with, if it shall then appear that an American citizen has been aggrieved, the Spanish government will make due reparation; and that, for the purpose of assessing the amount of indemnity to be paid, it will thereupon unite with the Government of the United States in choosing arbitrators to be named for that purpose.

In the observations I have to make upon the question of procedure, it will be convenient to distinguish between the several classes of reclamations under examination. The demands presented may be embraced under the four following classifications:

I. That the real and personal property of American citizens embargoed shall be restored to them or to their authorized agents;

II. That American citizens held in custody without trial shall be released, or tried by the judicial tribunals with the rights and privileges accorded by Article VII of the treaty of 1795;

III. That reasonable and just indemnity be paid to such American citizens as have been wrongfully deprived of their property, or of the use of it, or of the income from it, by the acts of the Spanish authorities; and,

IV. That American citizens arrested, imprisoned, or expelled from the island without sufficient cause appearing shall likewise be indemnified.

It does not appear reasonable to insist that the same formalities should be observed without discrimination in all the cases belonging to these separate heads. Take for instance the demand for the restoration of embargoed property. If, as your excellency observes, property may be embargoed in Cuba at the pleasure of the superior political governor, if the proceeding is not regulated by any law, if it is a military expedient adopted to diminish the resources of a seditious combination, it is not easy to see upon what ground or with what hope a resident of New York could apply to a court in Cuba to compel the captain general to restore property he had seized by virtue of the dictatorial powers he wields over the island; and the proceeds of which may have already gone into the colonial treasury as a part of the income for the current year, in conformity with the royal decree of the 12th instant. Nevertheless, your excellency maintains that although the courts of justice have had nothing to do with the execution of the measure, yet that to them should be addressed the reclamations of those citizens of the United States who complain that their property has been wrongfully taken. The more reasonable proposition would seem to be that redress should be sought from the same authority that committed the injury. That authority being the representative of the Spanish crown in the island of Cuba, with whom the Government of the United States holds no direct communication, it becomes a proper subject for the action of the two governments, the one extending due protection to its injured citizens, and the other responding, as in duty bound, for the acts of its official agent.

For the sake of illustration, let it be supposed that one of the claimants whose pro-

party has been embargoed proceeds to seek his remedy in the courts of Cuba: he files a petition setting forth the facts and circumstances of his case; besides the proof of his grievance he establishes his American citizenship to the satisfaction of the tribunals; having made good his complaint in the court of primary jurisdiction, and having been equally successful in the several appellate courts through which it may be supposed to have passed, and having at last obtained the favorable judgment of the supreme tribunal of justice in Spain, the claimant must still seek his compensation through his own government, for it is then that your excellency proposes that the government of His Highness shall unite with that of the United States in the appointment of arbitrators to appraise the amount of damages the claimant has sustained, and the award is to be thereupon paid by the Spanish government. That is to say—and this is the only deduction to be drawn from the course of procedure proposed by your excellency—the question of liability on the part of Spain must be decided by a Spanish court, while the incident of damages will be adjusted between the two governments.

Apart from the delay this mode of procedure would involve—and that consideration alone amounts almost to a denial of justice—the expense to which the parties would be put, the loss of their time and necessary absence from their ordinary avocations, the risk the claimants would run by reason of the insecurity of their persons in Cuba, not to speak further of the manifest hardship of compelling them to submit their demands to a tribunal powerless to afford them redress, render it sufficiently manifest that the course of procedure proposed by the Spanish government is dilatory, onerous, and impracticable. It is moreover inadmissible in principle. The President cannot acquiesce in the proposition that American citizens, recognized as such by their own Government, shall be remanded to foreign tribunals to establish their nationality as a preliminary to a hearing of their claims for indemnity formally presented by his authority for the consideration of the Government responsible for the injuries they have suffered.

I have already had the honor to inform your excellency that all the cases now brought to the notice of the government of His Highness the Regent, have been the subject of instructions to the consul general of the United States at the Havana, in order that they should be laid before the authorities in Cuba and redress demanded. These instructions have been fulfilled, and it is only in those cases in which this remedy has been found altogether unavailing, or where the redress afforded has been insufficient, that it has become necessary to ask for them the attention of your excellency.

The Government of the United States has always preferred to have these questions settled in Cuba by means of the intervention of the consul general with the local authorities, and has repeatedly expressed the wish that the captain general be authorized to dispose of them in that way. In some instances that officer has appeared to possess the necessary powers, while in other cases he has failed to act. In order that it may be quite apparent to your excellency that no effort has been spared to obtain justice for the claimants by the exhibition of the particulars and proofs of their grievances to the authorities in Cuba, I will cite, as an example, one of many such applications:

On the 15th of April, 1869, certain real estate and personal securities in Cuba, the property of the well-known firm of Moses Taylor & Co., of New York, was embargoed and taken from their agents. In September, 1869, a memorial in their behalf was presented by the late Attorney General, the Hon. William M. Evarts, praying that they may be restored to their rights through the intervention of the Government of the United States. The papers were forwarded, with appropriate instructions, to the consul general at the Havana. That officer reports that he presented the case to the superior political governor and gave him a copy of the papers, and that he received a reply on the 10th of November, from the secretary, that as soon as an examination could be made the decision would be given to him. On March 31, 1870, the consul general was further instructed to represent the case and ask for the removal of the embargo. On the 11th of April last, the consul reports the reply of the acting governor that the embargo cannot be raised until certain examinations, then in progress in New York, should be concluded, and that the Spanish government had grave suspicions in the case. From which it appears that a year having elapsed since the seizure, the Cuban authorities still retained the property arbitrarily taken by order of the captain general, without notice or opportunity given to the owners or their agents to be heard in their own behalf; and that the repeated representations of the United States consul general, based upon ample particulars and proofs, remained without result, excepting the disclosure that the Spanish government, after twelve months of investigation, claimed that the seizure and detention of the property of Messrs. Taylor & Co. rested upon "grave suspicions." Surely it will not be expected that in cases of this description, of which there are not a few, the Government of the United States can await the further pleasure of the Cuban authorities; or that the claimants should be turned over to the Spanish tribunals after the fruitless efforts of the consul general to obtain redress from the superior political authority of the island.

Passing from the embargo claimants to those unfortunate Americans imprisoned in Cuba without trial, it is difficult to discover how they are to establish their nationality

before the Spanish tribunals if this be insisted upon also in their cases as a condition of any intervention in their behalf by their Government. An opportunity to appeal to a court of justice is precisely what is asked for them, and what they have not themselves been able to obtain. To say to a foreigner in a Cuban dungeon who has been denied not only a trial, but who has been refused any means of communication with counsel or kindred or friends, that he may be tried when he shall have proved, to the satisfaction of the Spanish authorities, that he is an American citizen, would not seem to be a very substantial measure of relief. Neither does it seem consistent in the case of those other claimants who have been expelled from Spanish territory without judicial process, to reproach them with the failure to affirm their nationality before the courts of the country to which they are forbidden to return.

Your excellency is pleased to refer to the instructions addressed by the Secretary of State, under date of May 3, 1869, to the United States vice-consul general at the Havana, enjoining circumspection in ascertaining the real citizenship of persons making application for the recognition and aid of American consulates. In that communication your excellency may observe a fresh proof of the desire of my Government to confine its offices to those who have in good faith retained the right to ask for them. It may be presumed that no practical difficulties can arise in verifying the nationality of the claimants. The Government of the United States exercises habitual vigilance over applications made for its intervention, and uniformly requires satisfactory evidence of citizenship in such cases. It is to be supposed that a government will not err in determining whether the provisions of its own naturalization laws have been complied with by those who seek its protection, and that the comity of nations will accord full faith and credit to the customary proof of acts of the public authorities performed in the execution of municipal laws.

In view of the foregoing considerations, and in the interest of the continued friendship of the two countries, I trust it may be agreeable to the government of His Highness the Regent to accede to the earnest desire of the President for a more convenient and expeditious mode of settling the claims in question than the one suggested by your excellency. I am instructed to state that the proposed conditions of arbitration are distinctly objectionable, and cannot be admitted by my Government. The Government of the United States, in presenting the reclamations of American citizens for injuries suffered within Spanish jurisdiction, can address no other authority than that of His Highness the Regent.

The procedure indicated by your excellency would require the President to inform the claimants that they cannot be heard through their own Government—a conclusion that might be regarded as a rejection of the amicable means upon which the President has confidently relied for the arrangement of these differences. I have, therefore, the honor to submit for the further consideration of your excellency the proposition, that the representative of Spain in Washington be authorized to agree with the Secretary of State of the United States upon the several cases, together with the papers and proofs relating to them, that shall be submitted to the arbitrators; that the said arbitrators, one to be chosen on the part of the United States by the Secretary of State, and the other, on the part of Spain, by the Spanish minister in Washington, shall first select an umpire, to decide questions upon which they may differ, and thereupon proceed to determine the amount of indemnity to be paid to each claimant; and that, to facilitate the disposition of the business, the arbitrators be named on the part of the two governments without delay.

I avail myself of this occasion to renew to your excellency the assurances of my most distinguished consideration.

D. E. SICKLES.

His Excellency the MINISTER OF STATE.

No. 327.

Mr. Sickles to Mr. Fish.

No. 186.]

LEGATION OF THE UNITED STATES,
Madrid, November 12, 1870. (Received December 3.)

SIR: Yesterday being the usual day for the minister of state to receive the members of the diplomatic body, I availed myself of the occasion to ask Mr. Sagasta when I might have the satisfaction of communicating to you his answer to my note of October 14, on the subject of the reclamations I had presented in July last. I remarked to him that Congress would soon meet, and that it would be gratifying to the President to be enabled at least to communicate to the two Houses the fact that these questions were in a fair way of adjustment; and I also observed to his excellency that I

thought we might reasonably look for the prompt and friendly action of the government of the Regent upon the several matters I had brought to its notice in the communication mentioned, as they were urged in the interest of the continued good understanding between the two countries, which the President, in his proclamation of October 12, had given a fresh proof of his earnest desire to maintain. The minister replied that, on the receipt of my last note, he had asked the colonial secretary for some additional information, necessary to the further consideration of the subject, which had not yet been received; that he would immediately renew his request, and, as soon as the required data could be obtained, he would acquaint me with the views of the government upon the proposition I had submitted. I proceeded to state that the questions had already been pending several months; that they were of a nature likely to touch the susceptibilities of the American people; that, if the President, in his annual message, should find himself constrained to inform Congress that his repeated overtures to Spain had failed to obtain for the grievances of our citizens the consideration they were entitled to receive at the hands of a friendly power, a painful impression would be made upon public sentiment which I was most anxious should be avoided by the timely and just action of this government. With these observations I left the topic to his excellency, who rather abruptly gave the conversation another direction. I could not fail to notice the reserve with which Mr. Sagasta confined himself to a mere intimation of his intention to reply at an early day to my note of October 14, without indicating any probability of an agreement upon the matters under discussion.

I am, &c.,

D. E. SICKLES.

No. 328.

Mr. Fish to General Sickles.

No. 106.]

DEPARTMENT OF STATE,
Washington, November 18, 1870.

SIR: Your dispatch No. 172 is received. On the 17th instant I telegraphed, in reply to Mr. Motley—to be forwarded by him to you by mail and telegraph—that your course was approved, and that you would continue to press, firmly and vigorously, the plan of settlement of the pending claims desired by this Government, as indicated in your note to Mr. Sagasta of the 14th October. A copy of this dispatch is inclosed.

The President is not disposed to accept the offer of the Spanish government or to modify the demands of the United States. He thinks that no proposition, more just or more temperate, could be made than has been made. There may be a misapprehension in Mr. Sagasta's mind as to one point in our offer, which you may correct in conversation. The President contemplates that every claimant will be required to make good before the commission his injury and his right to indemnity. Naturalized citizens of the United States will, if insisted on by Spain, be required to show when and where they were naturalized, and it will be open to Spain to traverse this fact, or to show that from any of the causes named in my circular of October 14, 1869, the applicant has forfeited his acquired rights; and it will be for the commission to decide whether each applicant has established his claim.

The President desires to know the decision of the cabinet of Madrid at an early day, in order that, should the just wishes of the United States not be complied with, Congress may be advised of that fact. It is useless to prolong discussion where the right is so clearly on the side of this Government.

I have no time, in the haste of preparation for this mail, to express more fully my sense of the excellence of your note of the 14th of October to Mr. Sagasta.

I am, &c.,

HAMILTON FISH.

No. 329.

General Sickles to Mr. Fish.

[Extract.]

No. 195.]

LEGATION OF THE UNITED STATES,
Madrid, November 19, 1870. (Received December 12.)

SIR: On Wednesday, the 16th instant, the *Córtes* elected the Duke of Aosta King of Spain. Three hundred and eleven members were present and voted. The whole number of deputies is 344, so that 33 constituencies were not represented. The election was by ballot, each member inscribing thereon his own name and that of the person for whom he voted. The choice was made on the first balloting, the official candidate receiving 191 votes, being a majority of 18 in a full house, and a majority of 71 of the members present. Of the minority, besides the 33 who did not vote, 19—of whom 12 were Carlists—voted blank, 63 voted for a republic, 27 for the Duke of Montpensier, and the rest scattering. It may be remarked that Article 33 of the constitution, establishing a monarchy as the form of government, was approved last year by 214 votes. The regency of Marshal Serrano, duke de la Torre, obtained 194 votes, but it should be observed that only one monarchist deputy opposed the election of the regent. It appears, therefore, that of the 229 votes cast for the several candidates for the throne, the Italian prince received 84 per cent., and of the 214 votes given in favor of the monarchical form of government he received 89 per cent. Of the 191 members voting for General Prim's nominee, 65 hold places under his administration; and rumor says that lucrative public employment will soon be given to others of the majority. The majority embraces "progressists," "democratic monarchists," and a portion of the "union liberals;" that is to say, it represents the monarchical elements of the several parties that combined to effect the revolution of September, 1868. Although great efforts were made to increase the conservative vote in favor of the government candidate, the most influential of that class of deputies either abstained altogether or voted with the opposition. From the foregoing analysis of the ballot it appears that an emphatic majority of the constituent assembly—clothed with powers somewhat greater than those usually given in our system to a constitutional convention, inasmuch as this body not only framed the Spanish constitution but put it into operation—has ratified the choice made by General Prim to fill the Spanish throne. The incidents of the session are not regarded as promising a tranquil reign, nor even a peaceful accession to the throne.

I am, &c.,

D. E. SICKLES.

No. 330.

Mr. Fish to Mr. Motley.

[Telegram.]

DEPARTMENT OF STATE,

*Washington, November 17, 1870.***MOTLEY, Minister, London :**

Send Sickles by mail and telegraph this. Your number 172 received. Course fully approved. Insist firmly and vigorously on our plan for adjusting and settling claims as shown in your note to Sagasta.

FISH, *Secretary.*

No. 331.

General Sickles to Mr. Fish.

No. 197.]

LEGATION OF THE UNITED STATES,

Madrid, November 24, 1870.

SIR: The following is a transcript of a telegraphic dispatch forwarded from this legation at 7 o'clock this evening :

HAMILTON FISH, *Secretary of State, Washington :*

Your instructions through Motley are received. Interview with minister to-day by appointment. He anticipated the object of my visit, and stated that the action of this government on our reclamations had been unavoidably delayed because he had not yet received necessary information from Cuba, which had been diligently sought by telegraph. I again and earnestly urged prompt action, in conformity with your views. Minister said that he would not wait longer for colonial reports, but would at once answer my note of October 14. The minister's silence about the tenor of this reply seems significant.

SICKLES.

MADRID, *November 24.*

A copy of this dispatch goes by mail to Mr. Motley, for transmission by telegraph from London.

I am, &c.,

D. E. SICKLES.

No. 332.

General Sickles to Mr. Fish.

No. 199.]

LEGATION OF THE UNITED STATES,

Madrid, November 25, 1870. (Received December 12.)

SIR: I have the honor to report that on the receipt of your instruction, through Mr. Motley, on the 20th instant, I addressed a note to the minister of state, asking him to name the earliest time convenient to himself for an interview, which was promptly appointed for Thursday, (yesterday,) at 3 in the afternoon. Mr. Sagasta, foreseeing the purpose of my visit, did not wait for me to state it, but immediately on receiving me introduced the subject of our reclamations, and proceeded to narrate the proofs of his diligent efforts to obtain the information he desired from the colonial office to enable him to answer my note of October 14. He said that the secretary of the colonies having some time ago told him that the reports required could only be prepared in Cuba, orders were immediately sent by telegraph to forward them without delay. On the receipt of my request for an interview he had again asked Mr. Moret for the data called for, and was told that no answer had been received from Cuba; and that

now, not wishing to defer his reply any longer, he must do the best he could with such material as the Colonial Office had in its possession; he added that he hoped to receive from that department a communication on the subject within a day or two, and would at once write to me. I replied that his excellency had made no mistake in assuming that I had come to represent to him the desire of the President to know the views of the Spanish government with respect to the numerous reclamations I had brought to its notice, and to which my notes of July 26 and October 14 were particularly directed; that all our correspondence on the subject had been submitted to the President, and that I was instructed by a telegram just now received to ask for the immediate action of the government of His Highness the Regent upon the propositions I had submitted; that Congress would assemble early in December, and that it would become the duty of the President to inform that body of the stage the negotiation had reached; that the President had given so many proofs of his sincere desire to remove any cause of difference with Spain that his excellency would comprehend the disappointment and regret that would be felt at Washington if any further delay should occur in coming to a satisfactory understanding with the Spanish government in relation to the injuries our citizens had already suffered, as well as upon the measures suggested to prevent the recurrence of similar causes of complaint, and that I could not too earnestly commend to his excellency the importance of these considerations in the interest of the friendly relations of the two countries. Mr. Sagasta repeated his statement that he would at once give attention to the matter, and that I should hear from him very soon. I could not fail to be painfully impressed by the reflection that the minister disclosed no intimation of a disposition to accede to our reasonable demands heretofore presented, and that my allusion to the considerate and generous course of the President in all the questions which had grown out of the struggle in Cuba was received without the expression of any just appreciation of his action.

I am, &c.,

D. E. SICKLES.

No. 333.

Mr. Fish to General Sickles.

No. 111.]

DEPARTMENT OF STATE,

Washington, November 25, 1870.

SIR: I inclose a copy of a decree said to have been made by a military tribunal in Cuba, and published in the *Diario de la Marina* on the 9th of November, current.

This decree purports to condemn to death sundry persons named in it as the central republican junta of Cuba and Porto Rico, established in New York, and to confiscate their property. It appears affirmatively in the decree that none of the condemned had appeared before the court.

This revolutionary body, known as the Cuban junta, voluntarily disbanded itself about one month before this decree was made, and announced its intention to discontinue any hostile purpose it might have entertained against Spanish rule in Cuba. During its previous history its acts, so far as conflicting with the laws of the United States and the international duties of this Government, were repressed by the President. This Department has also been officially informed by Mr.

Roberts that the state of affairs in Cuba is regarded as a favorable one by the Spanish government, and that in consequence of that the extraordinary powers previously vested in him had been withdrawn. This Government has, therefore, seen with surprise and regret the announcement of a policy in Cuba which is apparently uncalled for by any present emergencies, which is not in harmony with the ideas now entertained by the most enlightened nations as to the treatment of political offenses, and which, as it appears to us, will tend to continue the unhappy disturbances which exist in Cuba. We recognize, however, that, so far as this is a purely domestic question between the government of Spain and the persons or properties of those who are subject to that government, the United States have no other right to interpose than that growing out of the friendly relations which have always existed between them and Spain, and the good faith with which they have observed their duties and obligations in this contest. It appears, however, that on this list are to be found the names of some persons who claim to be citizens of the United States. As to each such person, you will inform the minister for foreign affairs that, if it shall appear that his claim to be a citizen of the United States is valid, and that he has done no act to forfeit his rights as such, it will be claimed and insisted that he is entitled to the trial by civil tribunal and in the ordinary form of law which are guaranteed to citizens of the United States by the article of the treaty of 1795 which has already been made the subject of correspondence between you and the Spanish government.

I am, &c.,

HAMILTON FISH.

[From the Diario de la Marina, Havana, November 9, 1870.]

SENTENCE OF THE COURT-MARTIAL IN THE CASE OF THE CUBAN CONSPIRATORS.

[Translation.]

At the Cuartel de la Fuerza was judged and decided yesterday, in court-martial (consejo de guerra ordinario,) the voluminous process established against those who, it has appeared, belong, or have belonged, to the central republican junta of Cuba and Porto Rico that was established in New York for sustaining, with all kinds of resources, the insurrection against Spain that broke out at Yara the 10th of October, 1868. The decision of the fiscal having been read by Colonel Montaos, in which an extensive review of the course of the rebellion, from the first moments of its existence, is made with many interesting details, and a detailed explanation of the proofs found in the process against each one of the accused, the court dictated the following

SENTENCE.

In view of the process instituted by the colonel of cavalry, Don Francisco Montaos y Bovillard, by virtue of the decree of his excellency the captain general, of 2d of September, 1869, against the individuals that appear to have composed or do compose the so-called republican government of Cuba, and the central republican junta of Cuba and Porto Rico, established in New York for sustaining with every kind of resources the rebellion against Spain that broke out on the eastern department on the 10th of October, 1868, and having communicated all to the court, presided by Don Julian Pueyo, assisted by the advocate of the captain general, Don Elias de Zúñiga as assessor, and at which the defendants did not appear, being absent; and being duly examined, as also the decision of the fiscal, the court, by unanimity of votes in accordance with the prescriptions of the law 1st and 2d, title 2d of Partida 7th, and in the law 2d, title 7th, book 12th, of the Novísima Recopilacion, and as a doctrine, the 139th and 177th of the Penal Code, has condemned, and does condemn, as guilty of treason and rebellion, and to the punishment of death by the vile garrote, Cárlos Manuel Céspedes, Francisco Vicente Aguilera, Cristóbal Mendoza Eljio Izaguirre, Eduardo Agramonte, Pedro Maria Agüero y Gonzales, Salvador Cisneros y Betancour, Pio Rosado, Fernando Fornier, Miguel Betancour Guerra Jesus Rodriguez, José Izaguirre, Miguel Gerónimo Gutierrez, Arcadio Garcia, Tranquilino Valdés, Antonio Lorda, Eduardo Machado, Antonio Zambrana, Ignacio Agramonte, Rafael Morales, Lucas del Castillo, Diego Machado, Ramon Perez Trujilla.

Manuel Quesada, Thomas Jordan, Francisco Ruiz, José Valiente, José Maria Mora, Antonio Fernandez Bramosio, José Maria Bassora, Francisco Izquierdo, Plutarco Gonzalez, Ramon Fernandez Criado, Francisco Javier Cisneros, Joaquin Delgado, Ramon Aguirre, Francisco Fésser, Ignacio Alfaro, Miguel Aldama, Cárlos del Castillo, José Manuel Mestre, Hilario Cisneros, Leonardo del Monte, José Maria Céspedes, Francisco Valdés Mendoza, Nestor Ponce de Leon, Federico Galvez, Francisco Javier Balmaseda, Manuel Casanova, Antonio Mora, Luis Felipe Mantilla, Manuel Márquez, José Peña, and Joaquin Anido, without prejudice to their being heard if they should present themselves or should be found; their property, of whatever class, to be appropriated by the State for indemnification if the damages and expenses of the insurrection apprising the public exchequer to that end; also such property as belonged to José Morales Lemus, Honorato del Castillo, Luis Ayesteran, and Pedro Figueredo, with respect to whom the process ceases by reason of their deaths; absolving Mariano Alvarez and José Trujillo, for want of sufficient proof, and directing a cessation of the process with respect to Antonio Alcalá, who has been pardoned during the course of this process for having given in his submission to the government.

Havana, 7th November, 1870.

JULIAN PUEYO.
EDUARDO TASIER.
FELIPE SAEZ DE TEJADA.
JUAN NIETO MUJICA.
VALENTIN GOMEZ SEPULVEDA.
FAUSTINO CISTUÉ.
FERNANDO DOMINICIS.

No. 334.

General Sickles to Mr. Fish.

No. 205.]

LEGATION OF THE UNITED STATES,
Madrid, December 3, 1870. (Received January 4, 1871.)

SIR: Yesterday, as I have already informed you by my telegram of the 2d instant, I called on the minister of state, it being his customary day for the reception of the diplomatic body. I remarked to Mr. Sagasta that I had not yet had the pleasure to receive his reply to the proposition made in my note of October 14; to which the minister replied that I would very soon hear from him, as he had obtained from the colonial office the information he desired in regard to our reclamations. He gave no intimation of the probable tenor of his answer. I mentioned, on the authority of our minister to Brazil, who is passing a few days in Madrid, en route to Rome, that several troublesome questions, growing out of claims upon that government for injuries to American citizens, had recently been adjusted by means of a similar arrangement, and which had much to commend it when friendly powers desired to settle such controversies. This allusion drew no direct response, but Mr. Sagasta observed that he had heard the day before, from Mr. Roberts, that the arbitrators named to pass upon the "Lloyd Aspinwall" case had awarded a large sum to the owners. I expressed my hope that the decision would be satisfactory to all parties, and that the amount would be promptly paid, to which his excellency replied that payment would be ordered without delay.

I am, &c.,

D. E. SICKLES.

No. 335.

General Sickles to Mr. Fish.

No. 208.]

LEGATION OF THE UNITED STATES,
Madrid, December 8, 1870. (Received January 4, 1871.)

SIR: Your instruction No. 106 was received on the 5th instant. On

the same day I sent a note to the minister of state asking for an interview. On the 7th, no answer having been received, I repeated the request in another communication to Mr. Sagasta, to which a reply was promptly returned, saying that he would receive me to-day at half past 2 in the afternoon, and stating that the note previously addressed to him had not reached his hands. Meanwhile the Madrid journals had published a telegram giving the purport of the allusion to our reclamation against Spain made by the President in his annual message. As soon as I presented myself this afternoon Mr. Sagasta expressed his regret that my note of the 5th had been inadvertently confounded with two others received from this legation at the same time, acknowledging invitations to accompany the minister on a visit to the palace of the Escorial. Mr. Sagasta at once proceeded to state that he had conferred with his colleagues, and was happy to assure me that we were quite in accord as to the proposal made in my note of October 14, for the adjustment of the claims of American citizens upon the Spanish government; that the minister of the colonies, Mr. Moret, had suggested some advantages to be found in two commissions, one to pass upon the legal questions, and the other to assess the damages in cases where the Spanish authorities should be adjudged in fault; and that he must also insist upon no case going before the commission that had not been first presented to a Spanish tribunal without obtaining due reparation. Expressing myself gratified by the prospect of an agreement between the two governments, I observed, with reference to the proposal for two commissions, that the same persons could as well, and perhaps more satisfactorily, decide all the questions involved in the respective cases; that this was the usual practice, and that whatever testimony the Spanish government might desire to offer on the subject of damages could easily be obtained through the authorities in Cuba or the consuls in the United States, and presented to the arbitrators; that two commissions would add unnecessarily to the expense of conducting the proceedings, besides inconveniently prolonging them; that to distinguish in the manner suggested between the functions of the one and the other might raise questions of jurisdiction that would prove troublesome; that while a commission chosen expressly to appraise damages might not be composed of persons best qualified to pass upon legal propositions, it would not be difficult to select commissioners entirely competent to settle the incidental as well as the principal differences to be considered, and that it was only necessary for both governments, in choosing their respective arbitrators, to bear in mind the duties to be performed, and all occasion for a separation of their functions would be avoided. Mr. Sagasta replied that he was inclined to the opinion that one commission was enough; he had acquiesced in Mr. Moret's suggestion when it was made, but it would not, perhaps, be regarded as essential. With respect to the proposition that all cases must first be prosecuted before a Spanish tribunal, I said that I did not believe it would be accepted by my Government; it was not reasonable to ask that American citizens, most of whom resided in the United States, and who had suffered injuries at the hands of the Spanish authorities, should be remitted to Spanish courts for redress, to say nothing of the expense, the delay, and the personal risk the parties would incur in going to Cuba for such a purpose; it was not fair that such cases should be heard and decided by persons appointed exclusively by the government against which the reclamations were made; that if by tribunals the minister meant authorities, I presumed there would be no objection to a stipulation requiring claims to be first presented through the United States consul general at Havana to the superior political authority of

the colony, or to the supreme government at Madrid, through this legation, but that I could not assent to the doctrine that the jurisdiction of the commission should depend upon a previous adjudication by a Spanish court. His excellency appeared to yield to the latter construction of the word "tribunal;" he said the Spanish government must first have cognizance of the cases; that it would not be prudent to permit parties to go before the commission with claims which the government had not investigated. I replied that all the cases had been brought to the notice of the captain general of Cuba, or of this government, and ample opportunities for reparation had been afforded; that the Spanish authorities were in possession of all the material facts of each case; that the main difficulty was to reconcile the conflicting views which so often separate the immediate parties to a controversy, and hence it was desirable to resort to the expedient of an independent, intelligent, and disinterested tribunal, so organized as to be able to dispose of the cases promptly and equitably. I added that it would, perhaps, facilitate a comparison of views if his excellency would prepare a memorandum of any stipulations he might desire, after further reflection, to make in relation to the organization and jurisdiction of the arbitrators; that I would hold myself in readiness to call upon him at any time he would indicate, and offer such amendments as might appear to me to be necessary upon a perusal of his propositions; and that I felt confident we could arrange the details of the matter in one or two conferences, more satisfactorily, not to say more expeditiously, than by the interchange of notes. His excellency intimated his concurrence in this suggestion and promised to act upon it at an early day. I did not allude to the remaining points mentioned in your No. 106, as they were not involved in the discussion opened by Mr. Sagasta. I may have occasion to do so in our next interview.

I am, &c.,

D. E. SICKLES.

No. 336.

General Sickles to Mr. Fish.

No. 210.]

LEGATION OF THE UNITED STATES,
Madrid, December 10, 1870. (Received January 4, 1871.)

SIR: I have the honor to forward herewith several printed extracts, taken from Madrid journals, ministerial, republican, and conservative, commenting upon a telegram published here on the 7th instant, purporting to give a synopsis of the remarks of the President in his annual message in relation to our reclamations against Spain, for injuries done by the authorities in Cuba to the persons and property of American citizens.

I am, &c.,

D. E. SICKLES.

[From *La Epoca*, Madrid, December 7, 1870.]

The Washington telegram, which we publish elsewhere, has been the subject of animated discussions. Some thought it to be of immense importance, believing that the claims in question were those of Messrs. Morales Lemus, and Aldama, who are naturalized as North American citizens. Others, remembering the circumspect attitude which has constantly been maintained toward Spain by President Grant, thought that this portion of the message was only designed to cajole certain parties for the moment.

However, as the reasoning of the United States may have been similar to that which

called forth the famous note of Russia, we expect that prompt and serious attention will be given to this matter by the government. The telegraph brings us most important intelligence to-day; but as it is in open contradiction to all that President Grant has done thus far in respect to Spain, we must await fuller reports of the contents of the message.

LONDON, 6th; WASHINGTON, 6th.

The message of the President of the Republic says that a proposition has been made to Spain for the organization of a common tribunal to decide upon the petition of several American citizens for the losses suffered by them in Cuba. "If Spain," adds the message, "rejects the proposition, the President of the Republic will be obliged to communicate this fact to Congress, recommending prompt action." We presume that the government has received telegrams from the representative of Spain, and that the public will not long be kept in suspense concerning any grave event, as would be the one referred to in the above dispatch, should it really have occurred as stated.

[From *La Igualdad*, Madrid, December 8, 1870.]

We call the attention of our readers to the dispatch from Washington (sent to us by Fabra's agency) which we publish elsewhere. The dispatch could not be one of greater importance. The Republic of the United States, which has showed such consideration toward Spain while the government was conducted in the spirit of liberty, begins to show its displeasure as soon as we inaugurate the despotism of the monarchy of Amadeo. It will be fortunate if the caprice of General Prim does not cause severe disaster to Spain. The hostility of the North American Republic may be most fatal to us. Is this the first of the calamities which threaten us with the coming of the monarch of the never lucky Don Juan the general?

[From *El Imparcial*, Madrid, December 8, 1870.]

CUBA AND THE WASHINGTON GOVERNMENT.—The Washington dispatch which we publish elsewhere has caused us real surprise. The President of the United States refers, in a message to the Chambers, to the affairs of Spain, and speaks of a proposition made to our government to organize a mixed tribunal to take cognizance of the claims of American citizens who have suffered losses in Cuba. It is not easy, nor even prudent, to hazard an opinion in so delicate a matter, when we have before us nothing but the extract communicated by telegraph, in which the main statement is wanting, i. e., the class of American citizens to which the President refers in his message. We know that American citizens have taken part in the insurrection, either as soldiers in the filibustering expeditions which have gone to Cuba, or as conspirators with and auxiliaries of the insurgent forces of the island, and that there are others who, without taking any part, either as conspirators or soldiers, have seen their interests injured by the contingencies of war; and the words of General Grant cannot refer to the former. We have more than one, and more than two solemn declarations of neutrality made by the Government of the United States, and we cannot suppose that there has been a change of policy without any justifying cause. And what but an intervention would it be to demand indemnities for American citizens who, on account of having been taken with arms in their hands, or of having been judicially condemned as conspirators, have suffered injury in their persons or property? Nor do we believe that the words of General Grant refer to those Cubans who, like Aldama, Morales Lemus, and others, have become American subjects in order to bring claims on account of the measures adopted against them by the authorities of Cuba. The necessary qualifications for obtaining citizenship in the United States being known, we do not think that these gentlemen could have possessed them when they became guilty of the crimes for which they have been condemned. Does, then, the President of the North American Republic refer to those peaceable citizens whose interests have suffered injury in consequence of the operations of war? It is difficult to determine this, but if such is the fact, the attitude of the Washington Government will not be so grave as regards our cause. What is most probable is, that this part of the message of General Grant is one of the numerous political tricks which are employed by those governments in order to keep a certain portion of public opinion on their side. And such a step was never more necessary than at the opening of a Congress in which the radical party, the great support of filibusterism, is largely in the majority. In this way, even though the Government may intend to postpone the question indefinitely, it manages to quiet the excitement of the radicals long enough to give time to the Spanish Government to put down the insurrection. However, the above is nothing but mere conjecture, and we must await the arrival of the message in order to be able to express a reliable opinion with regard to the question.

[From *La Epoca*, Madrid, December 9, 1870.]

Advices subsequent to the Washington telegram which we published in our paper of Wednesday increase instead of diminishing the gravity of the indications made in the message of the President of the United States. We are told, and our advices are from a source which we must consider authentic, that the demands do not relate to Aldama or Morales Lemus, but to acts of confiscation, which are supposed to have been committed by the authorities of Cuba against North American citizens residing in the United States and in Cuba, without any form of trial before a legal tribunal. The demands also relate to arrests of North American citizens who had taken no part in the insurrection, to personal offenses done to citizens of the Republic, and to captures and detention of American vessels, styled illegal by that Government, whose cases are precisely similar to the recently-settled one of the *Lloyd Aspinwall*. We are likewise told that the manner of settlement proposed by the United States is similar to the one proposed by the United States and accepted by Spain in the case of the aforesaid vessel. The demands are not of to-day, as it appears; they have repeatedly been addressed to the minister of state by the Government of the Union, and Mr. Sagasta has been told, more than once, that if these matters were not put in the way of settlement before Congress met, they would necessarily become the subject of a communication from the President of that body. The case has presented itself, and we must lament the indifference which has been shown toward a thing which could easily be converted into a matter of serious controversy with a power with which it is of great importance for us to maintain the friendly relations which we have maintained hitherto. *El Imparcial* thinks that this part of the message of General Grant is one of the numerous political tricks which are used by those governments in order to keep a certain portion of public opinion on their side. And such a step, it says, was never more necessary than at the opening of a Congress in which the radical party, the great support of filibusterism, is largely in the majority; but prudence counsels us, in the case of powerful nations, to give no reason for what the *Imparcial* calls political tricks, since they may easily be converted into another great complication to be added to those which already weigh upon the island of Cuba. If the message means exactly what it says, although it may have nothing to do with political tricks, or with the intestine struggle which Spain is sustaining with Cuba, it is still grave as regards the relations between the two countries, and on account of the turn which the new North American Congress may give to the question. We have constantly maintained, although in opposition to the opinion of many of our friends in Cuba, that the most important thing for the government was to maintain relations of the utmost cordiality with the United States. We cannot, therefore, understand, the demands to which the message refers still being unsettled, why the subject did not receive the attention it deserved, as the errors into which the Washington Cabinet has been led by interested parties would thus have been dispelled, and this matter would never have assumed the proportions which it unfortunately has assumed.

[From *La Discusion*, Madrid, December 10, 1870.]

We announced to our readers more than a month since, that very friendly relations did not exist between our government and that of the United States with regard to the Cuban question. No great importance was then attached to the news. The message addressed by President Grant to the Chambers, of which the telegraph has given us a slight idea, now confirms our fears. And that no one may think that we are exaggerating, we transfer to our columns what the *Epoca* said yesterday in relation to the matter, this journal being certainly by no means favorable to the policy of that republic, whose Government is greatly interested in having the state of war and disturbance which has prevailed in Cuba for more than two years brought to an end, which our government is quite unable to accomplish.

[From *El Universal*, December 10, 1870.]

We do not yet know what are the demands of the Government of the United States with regard to property belonging to American citizens which has been embargoed or confiscated in Cuba; we do not, therefore, pay any attention to the matter, although the indications are not very satisfactory. At all events, we expect nothing good, in view of the policy of absurdities and acts of violence which prevails in the unfortunate island of Cuba.

No. 337.

Mr. Fish to General Sickles.

No. 122.]

DEPARTMENT OF STATE,

Washington, December 12, 1870.

SIR: I inclose herewith plenary powers to conclude a convention with the government of Spain for a mixed commission for the settlement of the claims of citizens of the United States against the government of Spain for wrongs and injuries committed to themselves, their persons, or their properties, or to the persons or properties of deceased citizens of the United States in or about the island of Cuba.

The objects to be accomplished by this commission are so fully set forth in my note to Mr. Lopez Roberts of the 9th of June last,* in my instructions to you of the 24th of June last, inclosing a copy of that note to Mr. Roberts in your note of the 14th October last to Mr. Sagasta, and in the other correspondence connected therewith, that it is only necessary to refer to those several notes. I inclose, as a general guide in framing a convention, copies of claims conventions between the United States and Venezuela, Peru, and Mexico, respectively. You will, however, be governed by the provisions of these instruments only so far as they may be found to be applicable to the present case.

In transmitting this power I have, therefore, only to call your attention to the importance of the following points:

1st. That the proposed commission shall be organized at the earliest possible day. To secure this it is necessary to have the convention here in time for the action of the Senate, before its adjournment, say not later than the 1st of February next. It will also be desirable to have the exchange of ratifications at Washington.

2d. That the commissioners shall sit at Washington; that they shall have full power to make their own rules as to the mode and time of the presentation of claims and of the proof thereof; and that they shall, before making rules, agree upon an umpire to whom all questions shall be referred on which they cannot agree, including the said rules.

3d. That they shall not have jurisdiction over claims growing out of contracts.

4th. That a reasonable time shall be given for the presentation of proofs.

5th. That claims and their proof shall be presented only through the Government of the United States, and that each government may employ one person as agent or counsel to represent it before the commission.

6th. As these claims are all against Spain, that government ought to be responsible for the expenses occasioned by their settlement by a commission; but if persistent objections are made to this course, you will propose that the expenses be defrayed by a percentage to be deducted from the amount awarded.

I am, &c.,

HAMILTON FISH.

* For copy of inclosures, see pages 697, 698.

No. 338.

Mr. Fish to General Sickles.

No. 123.]

DEPARTMENT OF STATE,
Washington, December 13, 1870.

SIR: On the 9th instant a telegram in cipher was sent to Mr. Moran, chargé d'affaires at London, which reads as follows:

MORAN, *Chargé, London*:

Telegraph and send by mail to Sickles as follows: "Separate commissions unnecessary, expensive, and dilatory, but not an insuperable objection. Requiring that claim should have been considered and rejected prior to submission, must be qualified if agreed to at all. You may agree, if necessary, that no claim be submitted until sixty or ninety days after it shall have been presented either to the authorities in Cuba, or to those in Madrid."

I am, &c.,

HAMILTON FISH.

No. 339.

General Sickles to Mr. Fish.

No. 217.]

LEGATION OF THE UNITED STATES,
Madrid, December 16, 1870. (Received January 4, 1871.)

SIR: I called at the Foreign Office this afternoon, confident of finding the minister at his quarters, as this is the day appointed by himself for the reception of the diplomatic body. Mr. Sagasta had, however, left the department at an early hour to attend the sitting of the Cortes. I asked to see the assistant secretary of state, and desired him to remind the minister of his promise made on the 8th instant, to inform me of the conclusions he might reach after our interchange of views on that day. Mr. de Blas told me that an important debate was expected to come on to-day in the house, and that, besides, a cabinet council was to be held before the Cortes met; that for these reasons the minister had been unable to hold his usual reception this afternoon; that he, however, felt authorized to say to me, under reserve, that the council of ministers had yesterday agreed upon the bases of the reply that would be made to-morrow or next day to our proposition in relation to the reclamations of the United States against Spain; that no more than one commission would be insisted upon, and that this should have cognizance of all claims for alleged violations of the treaty of 1795.

I asked Mr. de Blas whether I might inform you by telegraph of the purport of his communication, and he replied in the affirmative.

I am, &c.,

D. E. SICKLES.

No. 340.

Mr. Fish to General Sickles.

No. 126.]

DEPARTMENT OF STATE,
Washington, December 16, 1870.

SIR: Your dispatch of the 25th ultimo, No. 199, giving an account of your interview and conversation with Mr. Sagasta on the previous day

respecting the claims of citizens of the United States against Spain, growing out of transactions in Cuba, was received on the 12th instant. Subsequent information received through the telegraphic cable leads to the hope that an arrangement may soon be decided upon.

I am, &c.,

HAMILTON FISH.

No. 341.

Mr. Fish to General Sickles.

No. 127.]

DEPARTMENT OF STATE,

Washington, December 16, 1870.

SIR: Referring to your No. 195, concerning the election of the Duke of Aosta as King of Spain, I have to say that on the 19th of November Mr. Roberts called to officially inform me of that fact. I received the information without an intimation of the course that will be pursued by his Government. It has been the policy of the United States to recognize the governments *de facto* of the countries with which we hold diplomatic relations. Such was our course when the republic was established in France in 1848, and again in 1870, and in each case accepted by the French people. Such was our course in Mexico when the republic was maintained by the people of that country in spite of foreign efforts to establish a monarchy by military force. We have always accepted the general acquiescence of the people in a political change of government as a conclusive evidence of the will of the nation. When, however, there has not been such acquiescence, and armed resistance has been shown to changes made or attempted to be made under the form of law, the United States have applied to other nations the rule that the organization which has possession of the national archives and of the traditions of government, and which has been inducted to power under the forms of law, must be presumed to be the exponent of the desires of the people, until a rival political organization shall have established the contrary. Your course in the present case will be governed by this rule.

Should there be circumstances which lead you to doubt the propriety of recognizing the Duke of Aosta as king of Spain, it will be easy to communicate with the Department by telegraph and ask instructions. Should there be no such circumstances, the general policy of the United States, as well as their interests in the present relations with Spain, call for an early and cheerful recognition of the change which the nation has made.

I am, &c.,

HAMILTON FISH.

No. 342.

General Sickles to Mr. Fish.

[Telegram.]

MADRID, December 19.

Reply received to-night. Bases include numerous provisions. I send synopsis of those inconsistent with your instructions.

Both governments shall submit pending reclamations to arbitration in conformity to following propositions:

First. No indemnity for injuries resulting from judgment of civil or military court or other judicial proceeding agreeably to Spanish law and procedure.

Second. It must appear that the Spanish authorities inflicting the injury were informed of the nationality of the claimant.

Third. No right to indemnity if claim to American citizenship has been disallowed by judgment of any Spanish civil or military tribunal.

SICKLES.

No. 343.

Mr. Fish to General Sickles.

No. 129.]

DEPARTMENT OF STATE,

Washington, December 20, 1870.

SIR: The following telegram was forwarded to you on the 19th instant, through the United States legation at London.

I am, &c.,

HAMILTON FISH.

MORAN, London:

Send following to Sickles, minister, Madrid:

Telegram received. Full powers forwarded the 12th. Act as if you had them.

FISH.

No. 344.

General Sickles to Mr. Fish.

No. 223.]

LEGATION OF THE UNITED STATES,

Madrid, December 20, 1870. (Received January 13, 1871.)

SIR: I have the honor to transmit herewith a translation of a note dated yesterday and received last evening, from the minister of state, in reply to mine of the 14th of October last, in relation to our reclamations for injuries done to American citizens by the Spanish authorities in Cuba. You will observe that Mr. Sagasta has abandoned the principal positions taken in his communication of September 12, and in their place occupies ground not less untenable. Hitherto this government has maintained that no case could be submitted to arbitration until the claimant had prosecuted his demand before a Spanish tribunal and shown that he had failed to obtain redress in that manner. Now Mr. Sagasta insists that the arbitrators shall not have jurisdiction of any

matter that has been passed upon by a Spanish tribunal, whether civil or military. And I am sure you will share my surprise on receiving from the minister a proposition so at variance with his recent declarations, as well to myself as in the Cortes, in reply to the interpellation of Mr. Bugallal. Last night I sent you by cable a synopsis of Mr. Sagasta's note, and shall, of course, defer my rejoinder until I receive your instructions, the tenor of which, however, I might easily anticipate. I am reluctant to believe that this cabinet will insist upon conditions of arbitration so plainly inadmissible. Yesterday, as I left the diplomatic tribune of the Cortes, I met the Italian minister, who inquired about the state of the negotiation. I told him that no further communication from Mr. Sagasta had yet reached me, although on Friday last I had been distinctly assured at the Foreign Office that a satisfactory reply would be sent to me, at the very latest, on the Sunday following. Mr. Blanc seemed at a loss to understand the continued delay after the public statement of the minister in his place in the Cortes.

I am, &c.,

D. E. SICKLES.

Mr. Sagasta to General Sickles.

[Translation.]

MINISTRY OF STATE,
Madrid, December 19, 1870.

SIR: The government of His Highness might make a full rejoinder to the observations contained in the note of the 14th of last October, in which you were pleased to reply to my answer of the 12th of the same month (*sic*) concerning the reclamations of several American citizens for injuries suffered by them in consequence of the insurrection in Cuba; but after the ample and extended discussion to which this matter has already given rise, I deem it more expedient for the interests of both countries to arrive at once at a practical solution, conformably to the principles of equity and justice which animate the respective governments. The undersigned does not consider it necessary to make new protests, in the name of the Spanish government, of its earnest desire for the continued amity and good understanding existing between the cabinets of Madrid and Washington may not be interrupted, still less to reiterate the unchangeable intention of observing, for its part, the stipulations of the treaty of the 27th of October, 1795, with the same respect that it has for the international conventions celebrated with other powers. These sentiments, which have not ceased to inspire the government of his highness in the various questions that have arisen during the extraordinary circumstances through which the island of Cuba is passing, have especially guided it in considering this most important matter. Of this I have no doubt the Government of the United States will be persuaded on learning the bases which I have the honor to propose to it, and which, in the judgment of the government of His Highness, are calculated to conciliate all interests, protect all rights, and give just satisfaction to those who may have been prejudiced by administrative measures growing out of circumstances inevitably produced by a state of war, and which, in their application to individuals, should not injuriously affect the citizens of a friendly power. But the same homage which the Spanish government is, now as ever, ready to render spontaneously to the good faith of treaties and to the principles of justice in general, imposes upon it the duty of claiming, in its turn, the same tribute for the judgments pronounced by legally established Spanish tribunals, whose decisions have been considered, in Spain as in all civilized countries, entitled to the most profound respect. The proposition, set forth in the first stipulation, is in no way opposed to the provisions of the treaty of 1795; on the contrary, it is to be deduced from the contents of its seventh article, which has been cited several times by the Government of the United States in its communications to this ministry concerning the claims of American citizens. With regard to the further stipulations proposed, the undersigned believes that they cannot but satisfy the Government of Washington, inasmuch as they are for the most part founded on principles recognized and accepted by it in the course of the present negotiation, and which you have appealed to in your notes as being most conformable to the spirit of the treaty in question. In compliance with the orders of His Highness the Regent, I have the honor to propose, through you, to the Government of the United States, the following bases for the settlement of the question pending between Spain and the republic of the United States, respecting the losses and injuries inflicted by

the Cuban authorities upon certain American citizens, in their persons and estates, in violation of the provisions of the seventh article of the treaty of October 27, 1795.

First. No indemnity shall be awarded for loss or injury suffered by North American citizens in their persons or property, in pursuance of the judgments and decisions of civil or military tribunals instituted in Cuba in accordance with Spanish laws, and acting in conformity with the established procedure in force in Spanish territory.

Second. Those North American citizens shall be entitled to indemnification who have been deprived of their property, or injured in their estates or in their persons, and whose reclamations have been already taken up by the Government of the United States and presented to the Spanish government or to its representative in Washington, provided the claimants unite the following qualifications:

I. That they show that they were actually American citizens when the injury was inflicted.

II. That the injury was inflicted by Spanish authorities holding no judicial position, either civil or military.

III. That they made due claim as to their nationality before the Spanish authorities who inflicted the injury.

Third. Notwithstanding the provisions of the preceding article, no claimant shall be entitled to indemnification whose plea alleging foreign citizenship may have been found against him by any Spanish civil or military tribunal in an executive judgment rendered in conformity to the laws.

Fourth. The Spanish government and that of the United States shall submit pending reclamations, to be determined in conformity to the preceding conditions, to arbitrators who shall be named in the following manner: The minister of foreign relations in Washington shall name one arbitrator, and the minister of Spain in that city shall name another. The two thus named shall agree upon a third, who shall decide questions on which they may not be able to agree. The arbitrators shall examine pending claims and the documents on which they are founded, and shall institute such proceedings and investigations as they may deem necessary to an understanding of the facts, but always in obedience to the preceding established bases, and shall declare whether the claimants are or are not entitled to be indemnified by the Spanish government, and, in the affirmative case, the sum to be paid by the latter for such purpose.

Fifth. The Spanish government undertakes to make good the indemnities fixed by the arbitrators, or by the umpire, in conformity with the preceding bases.

I avail myself of this occasion to renew to you, sir, the assurances of my most distinguished consideration.

[PRÁXEDES M^o SAGASTA.

The MINISTER PLENIPOTENTIARY OF THE UNITED STATES.

Received December 19, 1870—5.10 p. m.

No. 345.

General Sickles to Mr. Fish.

[Extract.]

No. 227.]

LEGATION OF THE UNITED STATES,

Madrid, December 22, 1870. (Received January 13, 1871.)

SIR: I have the honor to transmit herewith a copy of a note dated 21st instant, and sent to-day to the minister of state, in compliance with your instructions Nos. 107 and 109, in relation to the failure of this government to execute the emancipation act of June last. I have taken this occasion to reiterate some of the views expressed in your No. 65. A proposition is now under consideration in the Cortes to authorize the executive to put in operation, provisionally, most of the important measures pending in that body having reference to the peninsula.

Inclosed herewith I have the honor to forward copies of these several propositions. Of the former, the best defense offered for it is, that the worst of the preceding governments have done the same thing. It will doubtless be adopted, although a plain violation of the constitution. It is not probable, however, that the Cortes constituyentes will bestow any

further attention upon the colonies. I should mention that the confirmation afforded by your No. 114, of the continued suspension of important articles of the law of June, 1870, made it expedient to dispense with any preliminary investigation in regard to the execution of that act. That it has not been executed is notorious here. If I had asked officially for information on the subject the inquiry would have been referred to Cuba, with the usual delay, and it seemed desirable that your views should be made known to Mr. Sagasta before the dissolution of the Cortes.

I am, &c.,

D. E. SICKLES.

General Sickles to Mr. Sagasta.

LEGATION OF THE UNITED STATES,
Madrid, December 21, 1870.

SIR: I have had the honor on several occasions to communicate to the cabinet of Madrid the representations I have from time to time been instructed to make on the subject of the institution of slavery in Cuba and Porto Rico, and especially to express the earnest desire of the President that Spain might see, in the abolition of domestic servitude, a means of promoting the true interests of her American possessions and satisfying the advancing sentiment of all civilized nations that liberty is rightfully the universal law of labor. These sentiments, which found the motive for their expression in the deep interest felt by the United States in the welfare of an adjacent population with which their relations are intimate and their intercourse constantly increasing, coincide with the conviction more than once frankly declared to the government of His Highness the Regent that the policy of political and administrative reform in Cuba best calculated to restore peace to that island and promote its prosperity. It is therefore with regret that the President is informed of the delay that appears still to attend the execution of the initiatory measure of emancipation adopted by the constituent Cortes in June of the present year. By a recent proclamation emanating from the superior political governor of Cuba, it seems that several of the most beneficial provisions of that law yet remain inoperative pending the preparation of regulations for their enforcement.

The President, relying confidently upon the fulfillment of the assurances heretofore given to me by his excellency the president of the council, and by the predecessors of your excellency in the ministry of state during my official residence in this capital, the desire and purpose of the government of His Highness the Regent speedily to abolish slavery in the Antilles, directs me to represent to your excellency the solicitude felt by the Government of the United States that the benefits of the preliminary act of the last session of the Cortes may be no longer withheld from the limited class of persons contemplated in its benevolent design. That act, at best, fell far short of the reasonable anticipations of the President, since his advances on the subject have been uniformly met by the government of His Highness the Regent in a temper and spirit that indicated a disposition to co-operate cordially with the United States in eradicating this blot from the civilization of America.

The progress understood to have been made in the pacification of Cuba may be lost if the opportunity now afforded in the remaining sittings of the constituent Cortes be suffered to pass without realizing some, at least, of those liberal measures of colonial reform to which the cabinet of Madrid has distinctly pledged itself in its communications to the United States Government. Among the considerations which have contributed most to restrain and control the manifestations of the sympathy felt in the United States for those who are believed to be struggling in Cuba for self-government, has been the confident expectation, founded upon the declaration of Spain, that before the dissolution of the constituent Cortes, institutions in harmony with the Spanish constitution of 1869 would be extended to the Antilles.

The only portions of the North American continent in which slavery exists, and in which representative government is denied, are found in the Spanish possessions of Cuba and Porto Rico. Continental surroundings and associations, which cannot but exert a powerful influence upon the inhabitants of those islands, have long commended to them the example of free institutions; and now that Spain has established for herself a government based upon universal suffrage, it must be more than ever difficult for her to maintain by force a colonial system which fails to satisfy just aspirations impossible to repress.

I avail myself of this occasion to renew to your excellency the assurances of my most distinguished consideration.

D. E. SICKLES.

His Excellency the MINISTER OF STATE.

[From La Gaceta de Madrid, December 20, 1870.]

The following proposition was read :

The undersigned deputies, desiring to promote the public good, and believing themselves faithful interpreters of the sentiment of the country, hereby propose to the Cortes a measure which, according to their best judgment, that sentiment imperiously demands.

The duties of the high office conferred upon us by universal suffrage having been performed; the principles proclaimed by the September revolution having been laid down in the fundamental code; the illustrious Prince, chosen by the vote of the representatives of the nation to finish their work, having been elected monarch, and having accepted the crown, the country asks what we are waiting for in order to close the already too long constituent period, and in order resolutely and at once to enter upon our normal life and the proper exercise of our new institutions.

Some supplementary laws, the passage of which was deferred by the assembly and that of the ceremonial for the reception of the oath of the monarch-elect, do not furnish a sufficient reason indefinitely to prolong the life of the Cortes, and therewith the interim condition and the evils which all parties have recognized and condemned.

For these briefly stated reasons the undersigned propose to the assembly to be pleased to decree :

That the Cortes shall receive the oath of Prince Amadeo, King-elect of Spain, on the day of his arrival at Madrid; and to this end the Cortes shall, until the 30th day of the present month, discuss and approve the ceremonial laws for the King's reception and for his taking of the oath, the laws for the division of electoral districts, and those relating to incompatibilities, to the endowment of the monarch, and the negotiation of treasury notes; devoting two sessions daily to this task, said sessions to be held every day, holidays included; no other business to receive attention during the same, save that during the first two hours of each afternoon session propositions not for new laws and other matters may receive attention. And in case that, said day having arrived, any of the aforesaid laws (bills) shall not have been discussed and approved, the government shall cause the same to be respected as laws, although they may be discussed and approved by the next Cortes; it being understood that the reception of the King's oath shall be the last act of the constituent Cortes; which having been performed, they shall be declared dissolved, and their mission at an end.

FRANCISCO ROMERO ROBLEDO.

VALENTIN GIL VIRSEDA.

CRISTOBAL MARTIN DE HERRERA.

LAUREANO FIGUEROLA.

SANTIAGO DIEGO MADRAZO.

GABRIEL RODRIGUEZ.

EDUARDO GASSET Y ARTIME.

PALACE OF THE CORTES, *December 19, 1870.*

[From El Universal, Madrid, December 21, 1870.]

The following petition has been presented to the Cortes :

The undersigned deputies beg the Cortes to be pleased to decree that, in case the proposed constitution for Porto Rico cannot, for lack of time, be discussed and adopted, in accordance with the provisions of article 108 of the constitution of the state, it may be one of the bills comprised in the proposition which is undergoing discussion, the colonial minister being thus authorized to establish it in Porto Rico at any time during the month of January next.

LUIS PADIAL.

CRISTINO MARTAS.

JACINTO ANGLADA.

JULIAN PELLON y RODRIGUEZ.

RODRIGUEZ SEVANE.

TOMAS RODRIGUEZ PINILLA.

JOSE MORALES DIAZ.

PALACE OF THE CORTES, *December 20, 1870.*

No. 346.

Mr. Fish to General Sickles.

No. 131.]

DEPARTMENT OF STATE,
Washington, December 23, 1870.

SIR: The following telegram was sent to Mr. Moran on the 22d, for transmission to you:

MORAN, *Chargé, London*:

Telegraph, and send by mail to Sickles:

"Telegram of 19th received; bases enumerated therein are entirely inadmissible."

I am, &c.,

HAMILTON FISH.

. No. 347.

General Sickles to Mr. Fish.

No. 230]

LEGATION OF THE UNITED STATES,
Madrid, December 23, 1870. (Received January 28.)

SIR: This afternoon I called to present my respects to the minister of state, it being his reception day, and finding his excellency alone, I took occasion to refer to his note of the 19th instant in relation to our reclamations. I said that I had immediately sent to you by post the text of his communication, and had, besides, forwarded by cable a synopsis of the several articles proposed by the Spanish government; that I had not yet received specific instructions as to the answer it would become my duty to make, but that with reference to the first and third articles, and the second and third clauses of the second article, I might at once state that they were quite inconsistent with the principles that had been already indicated for my guidance in the negotiation; that I had sought a frank conversation with his excellency on the subject, under the impression that if the bases contained in his note were entirely unalterable, further correspondence would be useless, and if they were open to modification we could more readily come to an understanding in one or two conferences than by the interchange of elaborate arguments at long intervals. Mr. Sagasta said he would be happy to hear my objections to the articles I had mentioned, premising that the Spanish government could not consent to submit the judgments of its courts to the revision of any other tribunal. I remarked that it would not be expected, on the part of the United States, that the Spanish government would submit the adjudications of its courts to be reviewed by foreign tribunals; that the jurisdiction of an international board of commissioners over the claims of American citizens to be presented to it would rest upon principles often recognized in the intercourse of sovereign states, and that the doctrine upon which these conventions were founded was quite distinct from that to which his excellency referred; that is to say, it is the duty and the right of every nation to see that justice is done to its citizens or subjects by foreign states; that if the authorities of a foreign state failed, in the judgment of the state to which the aggrieved party belonged, to do justice in any particular case, it is competent for that state to demand a suitable reparation or indemnity of the government in fault; and if

the two governments fail to agree in the premises it is the better practice of our times, in place of resorting to reprisals, to refer the questions to a mixed commission, with an impartial umpire, for final adjustment.

I then proceeded to state some additional reasons which would forbid the acceptance of the particular stipulations I had enumerated. In the first place I observed that the bases proposed by the Spanish government put the adjudications of civil and military tribunals on the same footing of infallibility, that whatever degree of authority might be claimed abroad for the judgments of the civil magistracy of Cuba, a question I would not then discuss, it could scarcely be expected that the decrees of courts-martial and military commissions, often proceeding summarily (*sin formacion de causa*) would be accepted by the United States Government as a compliance with the seventh article of the treaty of 1795, which guarantees to American citizens within Spanish territory, in all cases, a fair trial according to the laws of Spain, before a regularly constituted judicial tribunal. Mr. Sagasta answered that military courts regularly constituted, and proceeding in conformity to law, had always held a recognized place in Spanish jurisprudence, and, when acting within the prescribed legal channel, their jurisdiction should be recognized as valid; that he would not, however, claim for the acts of a military court, proceeding summarily and without regard to judicial forms, the respect he insisted should be accorded to the regular tribunals. I then alluded to another class of adjudication in which the courts of Cuba had pronounced sentences confiscating the property of citizens of the United States not within the jurisdiction of the court, nor present at the trial, and remarked that such proceedings were so far in conflict with our notions of justice that it would be in vain to hope for the acquiescence of the United States Government in any decree of that kind affecting the persons and property of American citizens.

To this suggestion Mr. Sagasta replied that such judgments were not executory according to Spanish law; that, as regarded property, they were in the nature of attachments, and with reference to persons they were to be considered as informations or indictments; that at all events they were not final, and would not be deemed to exclude the matter from the jurisdiction of a mixed commission. Having satisfied myself that the minister was not disposed to insist, without modification, on the bases he had proposed, I yielded to his suggestion to submit in the more precise form of a written communication the amendments I might desire, to which he promised to give immediate attention. I shall, therefore, answer his note of the 19th instant as soon as I receive your instruction in reply to my telegram of that date.

At this moment the cabinet is more than usually preoccupied with domestic questions; the Cortes will adjourn without day on the first of next month; the reign of the new dynasty will be inaugurated at the same time, and with it a new ministry, and almost certainly a new secretary of state will be named. There is now pending in the Cortes a proposition to give the executive certain extraordinary powers until the election of the first congress to be chosen under the constitution of 1869. This measure has provoked a parliamentary conflict that has already occupied several sittings of the chamber. Mr. Sagasta intimated that he expected to take part in the debate this afternoon, and for that reason, among others, I forbore proceeding further with the discussion I had, perhaps, somewhat irregularly prolonged in view of the informal occasion of our interview.

I am, &c.,

D. E. SICKLES.

No. 348.

General Sickles to Mr. Fish.

No. 236.]

LEGATION OF THE UNITED STATES,
Madrid, December 27, 1870. (Received January 23, 1871.)

SIR: The following is the text of a telegram, sent partly in cipher, from this legation yesterday:

HAMILTON FISH,

[*Recommandé.**Secretary of State, Washington:*

May I propose, as a modification of Spanish bases, that arbitrators shall hear all claims not before adjudged by a competent tribunal conformably to seventh article of treaty of ninety-five? Duplicate answer by French cable.

SICKLES.

MADRID, December 26.

I am, &c.,

D. E. SICKLES.

No. 349.

Mr. Fish to General Sickles.

No. 134.]

DEPARTMENT OF STATE,
Washington, December 27, 1870.

SIR: I have this day transmitted to Mr. Moran, at London, in cipher, a telegram, of which the following is the text:

Telegraph and write to Sickles: "Do not understand how far your proposed modification will affect American claims, nor how it will leave the bases communicated on nineteenth. Will await dispatch."

I am, &c.,

HAMILTON FISH.

No. 350.

General Sickles to Mr. Fish.

No. 237.]

LEGATION OF THE UNITED STATES,
Madrid, December 28, 1870. (Received January 23, 1871.)

SIR: I regret to have to report to you that last evening, while the president of the council, General Prim, accompanied by two of his aides-de-camp, was driving home in his carriage from the palace of the Cortes, he was fired upon and dangerously wounded by a party of armed men who had placed themselves in Turk street, not far from the palace of the minister of war, where General Prim resides. One of the aides-de-camp was likewise seriously wounded. It appears that neither the police nor the military guard were near enough to the scene of the occurrence to make any arrests, and in the absence of any knowledge on the subject it is supposed that political motives prompted the attack. The approaching consummation of General Prim's scheme to place a member of the royal family of Savoy on the Spanish throne had provoked intense animosity among the partisans of other dynasties—Isa-

bellina, Orleanist, and Carlist. Symptoms of irritation and impatience had likewise been shown by a few republicans, although for the most part the supporters of this advanced system of government evince a wise adhesion to the temperate counsels of their leaders, who advise a reliance on peaceful and legal means to obtain power, so long as the rights secured in the constitution of 1869 are respected by the government and enjoyed by the people. I heard of the sad occurrence while at the opera, and immediately repaired to the war department to inform myself of the condition of the minister and to assure him of the solicitude with which I should look forward to his recovery from the injuries he had received. I learned that already several balls had been extracted from his left shoulder and chest, and that one or two of the fingers of his left hand had been badly shattered, rendering amputation necessary. I was, however, told by some of his colleagues and by several officers of rank that the surgeons did not regard the injuries as mortal. This favorable view of the case is confirmed this morning by the official gazette, in its bulletin; nevertheless I am not without apprehension, considering the number of shots said to have taken effect and the somewhat impaired health of General Prim, that the deplorable event may have a fatal result. The most profound agitation pervades the capital, and strong measures are taken to prevent the revolutionary outbreak which is apprehended. Deeming the occasion a proper one for some official expression of regret, I have to-day addressed a note to the minister of state, referring to the incident in terms which I trust you may not find inappropriate.

I have the honor to inclose a copy of my communication, and to remain, sir, &c.,

D. E. SICKLES.

General Sickles to Mr. Sagasta.

LEGATION OF THE UNITED STATES,
Madrid, December 28, 1870.

SIR: If I hasten to assure your excellency how deeply I deplore the assault made last night on the person of his excellency the president of the council of ministers, it is because I know that I only anticipate the commands of the President in characterizing the crime as one of those offenses against civilization that associate all nations in their denunciation of its enormity, and in their sympathy for the illustrious sufferer. At the same time I beg to offer your excellency my congratulations upon the confident hope entertained of the speedy recovery of the president of the council from the serious bodily injuries his excellency received on the lamentable occasion I have mentioned.

I avail myself, &c.,

D. E. SICKLES.

His Excellency the MINISTER OF STATE.

No. 351.

General Sickles to Mr. Fish.

No. 240.]

LEGATION OF THE UNITED STATES,
Madrid, December 31, 1870. (Received January 28, 1871.)

SIR: The official gazette of to-day announces that the president of the council of ministers, General Prim, died last night at forty-five minutes past 8 o'clock. I heard of his death at the palace of the minister of war, soon after it happened, as I had gone thither to inquire about him, in consequence of the rumors of his decease which had spread through the city at an early hour in the evening. It is now acknowledged that, from the first, no hope of his recovery was expressed

by the attending physicians, and that grave reasons of state made it expedient to publish official statements of his convalescence. The members of the diplomatic body are requested to join the funeral procession to-morrow at the war department, and proceed thence to the church of Atocha, where the offices will be celebrated. I have the honor to forward herewith a copy of a note I have to-day addressed to the minister of state on the occasion of this sad event. The Countess of Rens, the widow of the late minister, has been created Duchess of Prim in her own right, and a further decree provides that she shall enjoy all the honors pertaining to a captain general of the army. General Prim's only son, the Vizconde del Bruch, a lad some ten or twelve years old, is created Duke of Los Castillejos, so named from a battle in the late war in Africa in which General Prim bore a distinguished part, and for which he was made a marquis by Queen Isabella. He conferred upon himself the grade of captain general after the revolution.

So far, no serious disturbance of the public tranquillity has followed the tragic occurrence to which the prime minister has fallen a victim. This fact repels the suggestion that the assault was the act of a political conspiracy, having for its object to seize possession of the government. It rather tends to confirm the more probable supposition that motives of personal revenge, perhaps originating in one of the many executions which have taken place during the past year in Cuba and on the peninsula, led to this signal crime. Although several arrests have been made, nothing is yet known of the offenders, nor is it probable, considering the inefficiency of the police in Spain and the impunity with which like offenses have been committed during the past year, that the guilty parties will ever be brought to justice.

I am, &c.,

D. E. SICKLES.

General Sickles to Admiral Topete.

LEGATION OF THE UNITED STATES,

Madrid, December 31, 1870.

SIR: I cannot refrain from tendering to your excellency the expression of my sympathy with the government and people of Spain in the severe and untimely loss they have suffered by the sudden decease of his excellency the Conde de Rens, president of the council of ministers. If any circumstance could deepen the impression made by this sad event, it would be found in the untoward means employed to put an end to the career of a distinguished general and statesman, whose services had often been signalized by tokens of public approbation and gratitude. The people of the United States, who have themselves suffered a like bereavement, will share with the chivalrous Spanish nation its regard for the memory of a great minister and its abhorrence of the unseen and unhallowed hands that struck him down at his post of duty.

I avail myself, &c.,

D. E. SICKLES.

His Excellency the MINISTER OF STATE.

No. 352.

Mr. Sickles to Mr. Fish.

No. 243.]

LEGATION OF THE UNITED STATES,

Madrid, January 5, 1871. (Received February 3, 1871.)

SIR: On the 2d instant the Duke of Aosta reached Madrid and took the prescribed oaths of office, in presence of the Regent, the Cortes, and the diplomatic body. The ceremony was brief, and not unlike, although

less impressive than, the inauguration of the President. I have high authority for the statement that His Majesty intended to read an inaugural address, which had been prepared, but that the precipitation with which the proceeding was conducted by the presiding officer of the Cortes afforded no opportunity for the royal speech. I suspect there may have been a purpose in this haste, as the King does not yet express himself with facility in Spanish. From the Cortes His Majesty was escorted by a strong column of troops of all arms to the palace. From thence he soon afterwards proceeded in a coach, unattended, to visit the widow of General Prim and the Duke de la Torre.

Although the people in the streets were anything but enthusiastic, no disturbance occurred, and the King's reception, if cold, was respectful. His person was found prepossessing, and I fancy the multitude were touched by the air of confidence in their hospitality to a stranger, if not in their loyalty, with which he rode through the streets, where the funeral procession of the minister to whom he owed his crown had passed only the day before.

To-day the official gazette announces the acceptance of the resignation of the provisional minister of Admiral Topete, and the formation of a new cabinet, in which General Serrano is president of the council and secretary of war; Señor Don Cristino Martos, minister of state; Señor Don Augusto Weloa, minister of grace and justice; Señor Don Segismundo Moret, secretary of the treasury; Señor Don José Maria de Beranger, secretary of the navy; Señor Don Práxedes Mateo Sagasta, minister of the home department, (*gobernacion*;) Señor Don Manuel Ruiz Zorilla, minister of public works, (*fomento*;) and Señor Don Adolfo López de Ayala, secretary of the colonial department, (*ultramar*.)

This cabinet represents the three principal monarchical parties identified with the revolution of 1868, and who united in the election of the Duke of Aosta to the throne. These parties, "*progresistas*," "union liberals," and "democratic monarchists," although differing in many particulars of political doctrine and administrative policy, and often antagonistic in their action, were not unfrequently associated under the adroit management of General Prim when their coalition was necessary to the success of his plans. It remains to be seen whether his successor in the direction of affairs will be able, for any length of time, to conduct an administration in which the elements are supposed to be quite incapable of cohesion except for an occasional exigency. In illustration of the composite structure of the new ministry, I may mention the rumor, apparently well authenticated, that to several of the more important departments assistant secretaries will be assigned, whose political affinities are quite distinct from those of their chiefs, although in harmony with the views of other members of the cabinet.

My own impression is that the new cabinet is the result of a truce between the representatives of rival factions, neither of which has enough of popular strength to sustain a ministry, and all of whom have a common interest in maintaining the dynasty they have contributed to inaugurate. In the late regent the King found a popular and brilliant soldier, enjoying the confidence of the army and thoroughly competent to deal with any seditious movement that might be attempted. Less pronounced in his partisanship than the civilian leaders of his own or of the other parties, his presence at the head of affairs seemed most likely to allay any suspicion of a purpose to turn the patronage and power of the prime minister to account in the approaching elections for provisional assemblies and the general congress. All parties look forward with solicitude to these elections—the first that will have taken

place under the new constitution—as affording the best evidence of the popular judgment upon the results attained by the revolution of 1868. For the King, the votes will resolve the doubts expressed of the disposition of the people to accept a foreign prince for a ruler. The rival factions of the revolutionary party that sought a change of dynasty and a modification of the monarchy in a direction more or less subject to the restraints of a written constitution guaranteeing personal liberty and establishing co-ordinate powers in the state, will of course endeavor to obtain an ascendancy in the first congress to be chosen, so that a practical direction, in harmony with the opinions of one or the other, may be given to the new form of government. * * *

The dissolution of the Cortes constituyentes without action upon the subject of colonial reform postpones, I fear, for a long period, if not indefinitely, any essential change in the unhappy condition of Cuba and Porto Rico. This cabinet, if disposed to undertake the task, would not be likely to agree upon a matter which most Spanish statesmen approach with reluctance, and that involves considerations quite certain to produce discord in a ministry comprising several phases of political opinion. I shall, nevertheless, be disappointed if I do not find, in Mr. Martos, the new minister of state, a disposition to adjust some, at least, of the questions which, if left unsettled much longer, must seriously affect the hitherto friendly relations of the two countries.

I am, &c.,

D. E. SICKLES.

No. 353.

Mr. Sickles to Mr. Fish.

No. 247.]

LEGATION OF THE UNITED STATES,
Madrid, January 10, 1871. (Received February 3.)

SIR: I have the honor to forward herewith a copy of my reply to Mr. Sagasta's note of the 19th ultimo, in relation to our reclamations for injuries suffered by American citizens in Cuba.

Mr. Sagasta was transferred from the ministry of foreign affairs to the home department immediately after my last interview with him on the subject of his note, reported in my No. 230. The appointment of his successor, Admiral Topete, which was made on the 27th ultimo, was understood to be merely provisional. The decease of General Prim on the 30th, and the advent of the new King, rendered a reorganization of the cabinet necessary. I therefore determined to wait for that event before framing my reply, since its tenor would depend, in some degree, upon the minister to whom it might be addressed. It will be observed that I have confined myself to a brief and very imperfect statement of the most obvious objections to the Spanish propositions. If Mr. Sagasta had continued in office, a more thorough discussion would, perhaps, have been expedient. I cannot believe that Mr. Martos, who is regarded as a learned jurist, will adhere to the positions taken by his predecessor.

Yesterday I mentioned to the assistant secretary of state that my reply would go in to-day, and requested him to put the correspondence before the minister, in order that he might be prepared to give the matter prompt attention. Mr. de Blas told me that he had already conferred with Mr. Martos on the subject, and he was quite sure that this question would be among the first considered.

I am, &c.,

D. E. SICKLES.

LEGATION OF THE UNITED STATES,
Madrid, January 8, 1871.

SIR: I had the honor to receive, on the 19th ultimo, the note of that date, addressed to me by the predecessor of your excellency, in reply to mine of the 14th, in relation to sundry reclamations presented by the Government of the United States for indemnity for injuries suffered by American citizens at the hands of the Spanish authorities in Cuba. Your excellency will appreciate the reasons that have induced me to defer my present communication until the definitive organization of the ministry, in which I am happy to see that your excellency returns to the department of state.

My Government receives with satisfaction the assurance that after the ample and extended discussion of the questions hitherto at issue in the correspondence that has taken place on this subject, the Spanish government believes it most conducive to the interests of both countries to come at once to a practical solution of the matter, in accordance with the principles of equity and justice that animate the respective cabinets.

It is to be regretted that several of the articles submitted on the part of the Spanish government, as regulations for the procedure of the mixed commission proposed by the United States, are not such as would facilitate an agreement between the parties. And it is confidently believed that upon a fair and frank view of these articles, your excellency will be satisfied that the objections to them are insuperable.

It is stipulated by the Spanish government in the first of the proposed articles, in the second and third clauses of the second article, and in the third article:

First. That no indemnity shall be awarded to any party for damages sustained in person or property in consequence of any proceeding or order of any civil or military tribunal, or of any authority having judicial functions, in Cuba.

Second. That in any case in which it shall appear that the civil or military tribunals of Cuba have overruled the claim of a party to be an American citizen, no indemnity shall be awarded; and it is further said that it must appear, in every case, that the party, without delay, asserted his American nationality before the authority inflicting the injury.

It would seem, therefore, that the Spanish government, while admitting its liability, in principle, for the acts of its civil and military authorities in Cuba, declines to recognize its responsibility for acts done pursuant to the orders of persons exercising its judicial power.

In the communication on this subject that I had the honor to receive from the minister of state, under date of 12th September ultimo, it was insisted that none of these claims for indemnity could be entertained by the Spanish government unless they had been first submitted to the adjudication of the tribunal in Cuba. Against that proposition I urged, in my note of October 14, the arguments which appeared to my Government to require its rejection. It is now abandoned, and in its place a ground is taken that appears to the President wholly inconsistent with the doctrine previously held by the cabinet of Madrid, and not less repugnant to precedent and justice.

The principles of international law do not permit a nation to insist either that a sovereign state shall require its citizens to submit their alleged grievances against the authorities of another power to the municipal tribunals of that power; nor that a government is exempt from liability for the acts of its tribunals exercising jurisdiction in its name and within its territory, and subordinate to its authority. On the contrary, it may be unhesitatingly affirmed that the recognized publicists in this branch of jurisprudence distinctly admit the responsibility of governments for injuries suffered through the misdirection, negligence, or fault of their authorities, and no distinction is made in respect to such liability between the acts of judicial officers and the acts of other public agents.

In matters of contract, or in any of the ordinary transactions of commerce between the citizens or subjects of different countries, it is not expected that governments will give their sanction to reclamations based upon complaints of the action of the judicial tribunals of other states, unless it is manifest that such gross misconduct has been committed as amounts to a denial of justice. The reclamations presented by the United States against Spain rest upon an entirely different ground. It is represented to the Government of the United States, upon evidence satisfactory to the President, that sundry citizens of the United States have been wrongfully injured in their persons and property by the authorities of Cuba, in a series of measures growing out of the state of hostilities of which that island has been the theater for more than two years. It is charged that American citizens have been arbitrarily deprived of their estates and merchandise by the mere order of the captain general and those exercising authority under that officer. In some cases it is alleged that American citizens have been arrested and imprisoned without sufficient or probable cause. In other instances it appears that they have been denied the rights and immunities guaranteed to citizens of the United States by the treaty with Spain of October 27, 1795. These reclamations having been presented to the government of Spain, and it appearing that the two governments could not agree upon the facts and circumstances of the several cases, nor

upon the redress to which the parties were entitled, it is proposed by the United States to submit all the claims to a mixed commission of three members, one to be named by each party and the umpire to be chosen by the other two commissioners, with power to hear and adjudge these several complaints upon just and equitable grounds.

In answer to this reasonable and friendly proposal the Spanish government now requires that the jurisdiction of the commission shall not extend to any claims in which the civil or military tribunals of Cuba have rendered judgment upon the merits of the case; and furthermore that the Government of the United States shall not be permitted to prosecute before the commission the claim of any citizen whose right to its protection has been considered and denied by a civil or military tribunal in Cuba.

In a conference with one of your excellency's predecessors on the 23d ultimo, I presented the principal grounds upon which these proposed limitations to the jurisdiction of the commission are deemed by the Government of the United States unreasonable and untenable. If I now recapitulate some of them, it is because they have not been brought to the notice of your excellency since your entrance upon the duties of the ministry of state. The proposition that the adjudications of Spanish tribunals are conclusive in all cases, whether affecting the person and property of Spanish subjects or of citizens of the United States, is in conflict with many approved precedents found in the leading authorities on international law, and is inconsistent with the practice of the Spanish government.

Grotius maintains that a judicial sentence plainly against right, to the prejudice of a foreigner, entitles his nation to obtain reparation by reprisals; "for the authority of the judge," he says, "is not of the same force against strangers as against subjects."

Bynkershoek also puts an unjust judgment upon the same footing with naked violence in authorizing reprisals on the part of the state whose subjects have been thus injured by the tribunals of another state.

And Vattel, in enumerating the different modes in which redress may be refused so as to authorize reprisals, mentions a judgment manifestly unjust and partial; and although he affirms, what is undeniable, that the judgments of the ordinary tribunals ought not to be called in question upon frivolous or doubtful grounds, yet he is evidently far from attributing to them that sanctity which would absolutely preclude a foreign government from seeking reparation in cases where, by reason of their action, its citizens have suffered wrongs.

Wheaton affirms that these principles are sanctioned by the authority of numerous treaties between the different powers of Europe regulating the subject of reprisals, and declaring that they shall not be admitted unless in cases of the denial of justice. "An unjust sentence," he adds, "must certainly be considered a denial of justice, unless the mere privilege of being heard before condemnation is all that is included in the idea of justice."

It may be remarked that it is by no means an uncommon occurrence for judgments affecting life and property to be pronounced by the tribunals in Cuba in the absence of the accused and without hearing any one authorized to appear in his behalf. Citizens of the United States can only be expected to acquiesce in the judgments of Spanish courts so far as their decrees are agreeable to the law of nations and to the treaties in force between the two countries. The Spanish government is bound to see that justice is done within Spanish territory to the citizens or subjects of other countries. And if justice is denied them, the aggrieved citizens of other states may rightfully seek through their respective governments an adequate indemnity.

Under the treaty of 1794 between the United States and Great Britain, a mixed commission was appointed to determine the claims of American citizens. In the course of the proceedings objections were made on the part of England against hearing any case where the British judicial tribunals had decided the reclamation adversely to the claimant, inasmuch as it was to be presumed that justice had been done. But this objection was overruled and the claims were allowed in many cases where equity seemed to require indemnity.

The United States made a like demand upon Denmark for indemnity in consequence of the denial of justice to American citizens by Danish courts. It was admitted, after a very elaborate and able discussion, that the most fit and proper measure by which a nation could satisfy itself of the injustice of sentences pronounced by its courts, was an impartial tribunal organized under the sanction of the two countries, for the purpose of determining between government and government whether any wrong had been done by the judicial authorities of the one power against the citizens of the other, and for determining what redress ought to be granted to the latter. In conformity to these principles a treaty was concluded by which a satisfactory indemnity was provided for the American claimants. In the treaty of 1835 between Spain and Great Britain, article 7, it is provided that mixed tribunals shall decide questions arising within Spanish jurisdiction affecting Africans.

In the treaties between Spain and Turkey, Morocco, Tunis, and Tripoli, it is provided that Spanish subjects shall not be subject to the jurisdiction of the courts of those countries.

From 1667 down to 1869, more than two centuries, Spain admitted in her treaties with European states the right of foreigners to an exceptional and special jurisdiction within Spanish territory. This *fuero de extranero*, at first conceded in the treaty with England, was afterward extended under the "most favored nation" clause to other powers. The tribunals organized for the exercise of this jurisdiction were under the immediate direction and control of the Crown, and all their judgments and proceedings were subject to the royal revision and sanction, so that their acts were, in fact as in theory, the acts of the government, and for which it was responsible to the powers interested in the protection of their citizens and subjects.

It appears, therefore, from the foregoing review of the public law and of the precedents found in the public transactions of states, that the limitations proposed by Spain to the jurisdiction of the mixed commission are inconsistent with her own practice and that of other nations in analogous cases, and contrary to the principles defined by the recognized authorities in questions of international right. I am instructed to state that the President regards the conditions I have specified as inadmissible, and he trusts that upon further consideration the government of Spain will find it agreeable to its views of equity to concede to the impartial tribunal proposed to be created ample jurisdiction to redress whatever injuries American citizens may have wrongfully suffered at the hands of Spanish authorities in Cuba.

The President contemplates that every claimant will be required to make good before the commission his injury and his right to indemnity. It is not desired that the commission shall take cognizance of claims growing out of contracts. Naturalized citizens of the United States will, if insisted upon by Spain, be required to show when and where they were naturalized; and it will be open to Spain to traverse this fact, or to show that from any of the causes named in the circular of the Department of State of the United States, of October 14, 1869, the applicant has forfeited his acquired rights. I am quite sure that your excellency will find in such a provision abundant safeguards against any alleged abuse of the claim of American citizenship.

I must decline any discussion of the third proposition presented in the note from the ministry of state of December 19, which seems to maintain that the adjudications of Cuban civil and military tribunals upon the naturalization laws of the United States should be accepted by my Government as determining the nationality of those it may deem entitled to its protection. That proposition cannot be entertained.

It is besides contemplated by the President that the respective claims and the proof appertaining to them shall be presented only through the Government of the United States; that each government may employ a person as agent or counsel to represent it before the commission; that the commissioners shall have full power to make their own rules as to the mode and time of the presentation of claims and of the proof thereof; and that before making such regulations, they shall agree upon an umpire to whom shall be referred all questions on which they cannot agree, including the rules aforesaid. And it will be for the commission, so constituted, after hearing the allegations and proofs on the part of the two governments, to decide upon all the facts and circumstances of each case, whether or not the claim is just, and the amount of indemnity, if any, to be awarded.

It is desirable that the proposed commission be organized at an early day. To this end it would be convenient if the convention were transmitted to Washington during the present month, in time for the action of the Senate before the day fixed for its adjournment, and that the exchange of ratifications take place at Washington.

I avail myself of this occasion to renew to your excellency the assurances of my most distinguished consideration.

D. E. SICKLES.

His Excellency the MINISTER OF STATE.

No. 354.

Mr. Sickles to Mr. Fish.

No. 251.]

LEGATION OF THE UNITED STATES,
Madrid, January 13, 1871. (Received February 17.)

SIR: I have the honor to transmit herewith a copy of a note from the minister of state, dated 7th instant, in reply to mine of the 28th and 31st ultimo, referring to the assault on the president of the council of ministers, and his death subsequently from the injuries then received.

I am, &c.,

D. E. SICKLES.

[Translation.]

MINISTRY OF STATE,
Madrid, January 7, 1871.

SIR: This ministry duly received your considerate note dated the 31st ultimo, making known the profound regret with which you had learned of the unqualifiable attack committed on the person of the president of the council of ministers, on the night of the 27th of December, and of the sad event which was its consequence.

In taking upon myself the charge of responding to this as well as to the note addressed to my predecessor in relation to the same deplorable occurrence, I fulfill the grateful duty of making known to you the expression of the sincere thankfulness with which the Spanish government has received your feeling communications, and it only remains for me to add that, as far as I am personally concerned, they serve to demonstrate to me once more the cordiality and good faith with which the Government of the United States responds to the friendly sentiments of that of His Majesty the King of Spain.

I avail myself of this opportunity to reiterate to you the assurances of my most distinguished considerations.

CHRISTINO MARTOS.

The MINISTER Plenipotentiary of the United States.

No. 355.

Mr. Fish to Mr. Moran.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 18, 1871.

Telegraph and send by mail to Sickles the following:

Is there probability of settling claims convention? President wishes to know, as only six weeks of the session of Congress remain.

FISH.

No. 356.

Mr. Moran to Mr. Fish.

No. 190.]

LEGATION OF THE UNITED STATES,
London, January 19, 1871. (Received February 3.)

SIR: Early this morning I had the honor to receive your telegram of yesterday for General Sickles, the text of which is as follows:

From Fish, Washington, 18th January, 1871, to Moran, Chargé, American Legation, London.

Telegraph and send by mail to Sickles the following:

"Is there probability of settling claims convention? President wishes to know, as only six weeks of the session of Congress remain."

At 12 noon to-day, I telegraphed your message to General Sickles, at Madrid, and this afternoon sent it to him by mail, in fulfillment of the instructions received from you.

I have, &c.,

BENJAMIN MORAN.

No. 357.

Mr. Fish to General Sickles.

No. 141.]

DEPARTMENT OF STATE,
Washington, January 17, 1871.

SIR: I have received your No. 223, dated the 20th ultimo, inclosing a copy of Mr. Sagasta's note of the 19th ultimo, relative to the reclamations

for injuries done to American citizens in Cuba by the Spanish authorities. I also received your telegram of the 27th ultimo, suggesting a proposal of certain modifications of the Spanish bases set forth in Mr. Sagasta's note, the effect of which not being entirely comprehended by the President, I telegraphed you to that effect, and added that I would await the arrival of the text of the note; and, in my No. 234, of the 27th ultimo, I transmitted to you a copy of that telegram. Since then I have further received your telegram of the 13th instant, informing me that you had replied to Mr. Sagasta's note of the 19th ultimo. I shall await the receipt of that reply before making further comments. You correctly characterize the Spanish conditions as "plainly inadmissible." It is sincerely to be hoped, in the best interests of both countries, that these negotiations may at an early day reach a satisfactory conclusion.

I am, &c.,

HAMILTON FISH.

No. 358.

Mr. Sickles to Mr. Fish.

No. 256.]

LEGATION OF THE UNITED STATES,
Madrid, January 19, 1871. (Received February 17.)

SIR: I have the honor to transmit herewith a translation of a note dated the 17th instant from the minister of state, in reply to mine of the 21st ultimo, relating to the delay in the execution of the law of 23d June, 1870, emancipating certain classes of slaves in the Antilles.

I inclose also, for your information on the subject of colonial reform, a fuller report, taken from *El Correo de España*, of the debate in the Cortes, of which I sent you what now appears to have been a resumé in my No. 233.

Mr. Martos, one of the signers of the proposal made to the Cortes on the 20th ultimo, to authorize the government to put the proposed constitution for Porto Rico into immediate operation, is now minister of state for foreign affairs. Mr. Moret, then minister of the colonies, is the secretary of the treasury in the present cabinet.

I am, &c.,

D. E. SICKLES.

[Translation.]

MINISTRY OF STATE,
The Palace, January 17, 1871.

SIR: The minister of the colonies, to whom a copy of your note dated the 21st of last December, respecting the question of slavery and political reforms in Cuba and Porto Rico, was duly furnished, in a communication of the 12th instant, makes the following statements, which I have the honor to set before you.

"The law of slavery, passed by the constituent Cortes on the 23d of June last, has been fulfilled and obeyed in all its parts in Cuba from the date of its publication, although the absence of regulations for its execution makes it necessary that what would have otherwise been a matter of mere form should be made the basis for regularly instituted proceedings for the clear determination of each case. In order that the execution of the said law may suffer no obstruction, this ministry has prepared ample and detailed bases to serve as a starting-point for the regulations referred to, which have been already framed at some length by the superior civil governor of that Antilla, and have been transmitted to the council of state, subject to the provisions of the law organizing that

high body, in order that the definitive regulations for carrying out the law in question may be drawn up without delay. Meanwhile it has been ordered that the bases referred to shall be provisionally obeyed in all cases where their enforcement may not be absolutely impossible. In Porto Rico the law of the 23d of June has also been promulgated, and the preparation of its regulations is under consideration. The slaveholders of that island have anticipated abolition in the name of the Cortes and the government, and the fact of the law not having been before promulgated in that Antilla is mainly owing to the desire on the part of the authorities to give time to the proprietors to accomplish emancipation spontaneously, as, in fact, the greater number have already done, for it is better that the slaves should owe much to their masters in the question of freedom, and that they should not depend alone on the action of the government. Besides the precepts of the law passed by the Cortes, in which the public opinion of all countries has seen the demonstration of the intention of the Spanish government to bring about the disappearance of slavery from its American domain, this ministry is in active correspondence with the superior authorities of the Antilles with the aim of accomplishing the complete abolition of slavery, and for this purpose the government has authorized meetings of the slaveholders, that they may consider and prepare a plan for the immediate realization of this object. The representative of the United States at this court can bear witness to the earnestness with which the government of Spain is acting in the question of slavery, and knowing, as he does, as well by the official documents made public by this ministry as by the communications made to him personally, all the steps that have been taken in so important a matter, he must appreciate the good results thus far obtained and those confidently to be looked for in the future. None of the nations in whose dominions slavery existed were able to realize its abolition, nor even to modify the system preparatory to its subsequent extinction, without serious perturbation of public order and detriment to agricultural and industrial interests. Spain, although occupied with internal questions of policy and forced to sustain a formidable conflict in the most important of her possessions, has initiated and made great progress in the solution of this transcendent problem without complications or disturbances arising, and has seen with satisfaction that the slaveholders themselves, animated by feelings of pure patriotism, are aiding her in her humanitarian work, and are even considering and preparing for complete abolition. As for the political reforms proposed for the Antilles by the government in the early days of the revolution, your excellency is perfectly aware how sincere this ministry has been in its intentions and what perseverance it has shown in the fulfillment of those promises. A provincial law and a municipal law in complete harmony with the Peninsular government are now in force, and are obeyed without opposition in Porto Rico, and that island has been represented in the constituent Cortes.

"The war in Cuba has impeded the extension of analogous reforms to that colony, but its end being near, the government will soon have facilities for realizing with all proper prudence the designs above indicated."

I improve this occasion to reiterate to you the assurances of my most distinguished consideration.

CHRISTINO MARTOS.

The MINISTER PLENIPOTENTIARY OF THE UNITED STATES.

No. 359.

Mr. Sickles to Mr. Fish.

No. 262.]

LEGATION OF THE UNITED STATES,
Madrid, January 23, 1871. (Received February 17.)

SIR: On the receipt of your instruction of the 18th instant, through the legation at London, I communicated the purport of it unofficially to a member of the cabinet, suggesting its significance, and at the same time I addressed a note to the minister of state, asking an interview. Mr. Martos promptly replied, desiring me to come to the palace to-day at 3 in the afternoon. I then recapitulated to the minister the successive steps in the negotiation for a claims convention begun in June last, touching incidentally upon the frequent modifications of the attitude of his predecessor, Mr. Sagasta, in the course of the correspondence, as well as in our personal conferences. After calling the attention of Mr.

Martos to the patience with which the President had permitted me to follow the discussion so tardily conducted by the Spanish government, and his forbearance in asking for a decisive answer to our propositions while the cabinet of Madrid found itself preoccupied by important home questions, I stated that, in view of the completed organization of this government, and of the approaching termination of the last session of the present Congress, I was instructed to report at once to the President whether there was any probability of an early and favorable issue to the negotiation, and I added that, while I ought not to conceal from his excellency the impression that would be made by a negative answer, I must frankly state that I could not, without a further communication from him, send any other than a most discouraging reply to the inquiry addressed to me by my Government.

The minister immediately sent for the assistant secretary, Mr. de Blas, and asked him for a statement of the points at issue, remarking that, although he had given some attention to the subject, he had not yet gone through the voluminous correspondence and papers relating to it. Mr. de Blas proceeded to give a resumé of the discussion, which I had occasion to complete by directing Mr. Martos's attention to Mr. Sagasta's proposed limitations of the jurisdiction of the commission, as stated in his note of December 19, these being, as I remarked, the principal obstacles in the way of an agreement.

The minister then stated that he would take up the subject to-morrow, and after a conference with his colleagues, would be prepared on the following day, when he expected to meet me at dinner at my house, to acquaint me, at least informally, of the reply I might rely upon receiving this week to my note of the 8th instant.

Upon the suggestion of Mr. de Blas, the minister desired me to inform you by telegraph of the assurance he had given me. The conversation then drifted toward a discussion of the doctrine propounded by Mr. Sagasta, that no case which had been decided by a Spanish tribunal could be submitted to international arbitration—a proposition that neither Mr. Martos nor Mr. de Blas appeared disposed to maintain.

I am, &c.,

D. E. SICKLES.

No. 360.

Mr. Sickles to Mr. Fish.

No. 263.]

LEGATION OF THE UNITED STATES,
Madrid, January 26, 1871. (Received February 23.)

SIR: I have already sent to you by telegraph to-day the substance of the verbal communication made to me last night, at my house, by the minister of state.

Mr. Martos said that he sincerely desired to come to an understanding with me as to the best manner of disposing of the reclamations I had presented; that he believed an expeditious and satisfactory arrangement would be found in following the precedent of the "Lloyd Aspinwall" case, inasmuch as a formal convention or treaty must be laid before the Spanish as well as the American Senate; that the former body had not yet been chosen, and no day having been appointed when it should meet, considerable delay would attend the exchange of ratifications of a treaty.

With reference to the question of the jurisdiction of the arbitrators, he was disposed to yield the principal points of difference that had arisen in the course of the negotiation; he would agree to the arbitration of all claims of American citizens for violation of the treaty of 1795: he deemed it right, however, to insist that whenever a case had been adjudicated by the Spanish tribunals, in conformity with the guarantees and forms stipulated in the treaty of 1795, the judgment should be allowed to stand; and, also, that in any case in which an American citizen had failed to disclose his nationality to the tribunal before which he appeared, he should be debarred from claiming indemnity for the same subject-matter from the arbitrators; but in regard to the adjudications of Spanish tribunals upon the nationality of persons claiming to be American citizens, he agreed that such judgments should in no case preclude the parties from having their claims heard and decided by the arbitrators.

Mr. Martos, in making this verbal communication, stated that during the present week I would receive a formal reply to my note of January 8th. I observed that I would acquaint you with what he had said, and reserve any observations I had to make until the receipt of his note.

Referring to articles 70 and 74 of the Spanish constitution, it will be seen that, although the King may declare war and make peace, he cannot, unless authorized by law, cede any part of Spanish territory, admit foreign troops on Spanish soil, ratify a treaty of alliance offensive, or a commercial convention, or a stipulation to pay a subsidy to a foreign power, or any compact that may personally bind his subjects. It does not distinctly appear that a claims convention is embraced within these provisions; but upon a question involving the powers belonging respectively to the several departments of this government, I hesitated to dissent from the opinion expressed by so distinguished a jurist as the minister of state.

I am, &c.,

D. E. SICKLES.

No. 361.

Mr. Sickles to Mr. Fish.

No. 264.]

LEGATION OF THE UNITED STATES,
Madrid, January 27, 1871. (Received February 23)

SIR: Before sending you a telegraphic abstract of the views of the government on the subject of our reclamations and the bases upon which their settlement should be effected, as communicated to me by the minister of state on the night of the 25th instant, at my house, I deemed it advisable to submit to Mr. Martos the draught of my dispatch to you, in order that his excellency might make any needful corrections and assure its accuracy.

The dispatch, as sent to his excellency, read as follows:

HAMILTON FISH, *Secretary of State, Washington:*

Minister says that this government will arbitrate all claims for violation of treaty ninety-five. Arbitrators may award damages in cases decided by Spanish tribunals; it appears that treaty has been violated. Adjudications of Spanish tribunals on the question of citizenship not to bar jurisdiction of commission. No adjudicated claim to be considered, if presented by a party who appeared before a Spanish tribunal and failed to assert his nationality. Spanish government prefers that this arrangement be made by an interchange of notes, as the Aspinwall case was settled, without formal convention or treaty.

SICKLES.

MADRID, *January 26.*

A communication was promptly received from his excellency through the chief clerk of the ministry of state, of which the following is a translation :

Private.]

MINISTRY OF STATE,
Assistant Secretary's Office.

General SICKLES :

ESTEEMED SIR: Mr. Martos, to whom I have just read the draught of the telegram you were pleased to send him by your secretary, Mr. Adey, instructs me to state to you that it is correct without any alteration save the re-writing, for greater clearness, of the paragraph commencing "Arbitrators may award damages," &c., in the following form :

The arbitrators may award damages in cases already adjudicated by the Spanish tribunals, if it appear that in *their judgments the guarantees and forms consigned in the treaty of 1795 have been violated.*

In complying with Mr. Martos's order, I improve this opportunity to offer myself to you as your obedient servant,

FRANCISCO MILLAN Y CARO.

A corresponding change was made, in accordance with Mr. Martos's wishes, and the dispatch was transmitted to you, by way of the United States legation in London, at 7 o'clock last evening, in the following words :

BENJAMIN MORAN, *United States Chargé, London :*

Telegraph the following to Fish when intelligibly received :

Minister says this government will arbitrate all claims for violation of treaty of ninety-five. Arbitrators may award damages in cases decided by Spanish tribunals if it appear that their judgments have violated the guarantees and forms of the treaty of ninety-five. Adjudications of Spanish tribunals on the question of citizenship not to interfere with jurisdiction of commission. No adjudicated claim to be considered if presented by a party who appeared before a Spanish tribunal, and failed to assert his nationality.

Spanish government prefers that this arrangement be made by an interchange of notes, without formalities of a convention or treaty, as the Aspinwall case was settled.

SICKLES.

MADRID, *January 26.*

I am, &c.,

D. E. SICKLES.

No. 362.

Mr. Sickles to Mr. Fish.

No. 272.]

LEGATION OF THE UNITED STATES,
Madrid, January 31, 1871. (Received February 23.)

SIR: In compliance with the request of the minister of state, I called upon him yesterday afternoon at 2 o'clock, when he informed me that the preparation of his reply to my note of the 8th instant had been unavoidably delayed; but that, in deference to the wish I had so often expressed for prompt action in the matter of our reclamations, he was then prepared to submit to me the concluding portion of his answer, embracing the bases proposed by the Spanish government for a settlement of the question.

I remarked that I would send you a translation of his propositions, and wait the receipt of your instructions in reply to my telegram of the 5th instant, informing you of his previous verbal statement of the same propositions. Mr. Martos then kindly offered to forward my telegraphic dispatch through the Spanish legation in London, giving it precedence in the Spanish wires over all other matter. This courteous offer I

accepted, and at 6 o'clock last evening the following dispatch, addressed to our chargé d'affaires in London, was left at the ministry of state for transmission to that city :

BENJAMIN MORAN, *United States Chargé d'Affaires, London :*

Send following by cable to Washington :

Minister of foreign affairs communicates following bases for settlement of our reclamations :

First. The arbitrators shall adjudge reclamations preferred by American citizens against acts of the Spanish authorities in Cuba, and also against judgments of tribunals or military commissions in Cuba, for the sole object of investigating and deciding whether the forms of law have been observed in those adjudications, and especially whether the guarantees in the treaty of 1795 have been complied with.

Second. The arbitrators shall also have cognizance of the reclamations of those Spaniards naturalized as American citizens who, having asserted their acquired nationality before the tribunals or military commissions, have had their allegation disallowed. In these cases the arbitrators shall have full powers to decide whether the claimants possess the qualifications of American citizens or not. The commission having recognized the quality of American citizenship, the claimants will possess the rights to which the first paragraph refers.

Third. Those naturalized Spaniards who failed to allege their quality as foreigners before the tribunals or Spanish authorities, shall have no right to a hearing before the commission.

The failure to assert their nationality shall be accepted as a submission to the tribunals and authorities of Spain in Cuba.

Article *fifth*. The bases being accepted, the corresponding document shall be drawn up and exchanged by means of notes between the two governments of Madrid and Washington.

Articles *four* and *six* relate to matters of detail, and substantially agree with our views.

SICKLES.

MADRID, *January 30.*

No. 363.

Mr. Fish to General Sickles.

No. 155.]

DEPARTMENT OF STATE,

Washington, January 31, 1871.

SIR: A telegram was sent to you on the 28th instant, through the United States legation at London, the text of which is as follows :

"MORAN, *Chargé, London :*

Send the following to Sickles by a special messenger, by the earliest opportunity :

"Telegram of 26th received. We prefer a convention, but will not refuse submission, as proposed, of all claims, such as were indicated in the power sent you, dated 13th December last, whether in violation of international law or of treaty rights. Your notes of July 26th and October 14th cover this ground. Understanding the proposition thus, it is not objectionable. The arbitrators should have the powers given by article 21 of the treaty of ninety-five. The time for the presentation of claims may be limited. The convention or submission must allow the presentation of claims not heretofore presented, as was contemplated in your notes."

I am, &c.,

HAMILTON FISH.

No. 364.

Mr. Fish to General Sickles.

[Telegram.]

FEBRUARY 1, 1871.

First point in telegram of 30th inadmissible, if construed as forbidding us to question judgments in violation of international law or

of treaty, or if made in the absence of parties. The second and third points seem to exclude naturalized citizens who have not asserted their nationality before Spanish tribunals. My telegram of 28th explains our views. Are these changes, which are inconsistent with telegram of 26th, made for the purpose of delay? Answer, in order that instructions may be given in such case. If Spanish government desire to settle in same manner as in Aspinwall case, why not give Roberts full powers as in that case?

FISH.

 No. 365.

Mr. Sickles to Mr. Fish.

No. 273.]

LEGATION OF THE UNITED STATES,
Madrid, February 3, 1871. (Received February 23.)

SIR: I have the honor to forward herewith a translation of Mr. Martos's reply to my note of the 8th ultimo, in relation to the proposed claims convention. It is dated January 30, and was received on the 31st, although the concluding summary of propositions was read to me at the ministry on the 30th ultimo, and a copy furnished, from which I compiled my telegram of the same date.

I have not yet received your telegram of the 28th ultimo. Mr. Moran informs me that he will send it by special messenger; and I shall defer my reply to Mr. Martos until I receive those instructions, as I suppose they relate to my telegram of the 26th, in which I informed you of Mr. Martos's verbal communication of the previous day.

You will notice in these several papers the usual variation that occurs from time to time in the statement of the views of the government upon the points at issue. I hope, however, to be able very soon to present to the minister of state a memorandum of an arrangement upon which we can agree, and that it will meet the requirements of your instructions.

I am, &c.,

D. E. SICKLES.

 [Translation.]

MINISTRY OF STATE,
Madrid, January 30, 1871.

SIR: I have received your note of the 8th instant, in which you are pleased to answer the communication addressed to you under date of the 19th December last, by my worthy predecessor in this ministry, respecting the principles and rules which the Spanish government believed necessary to be followed in the fulfillment of its task by the commission of arbitrators to be named for the purpose of considering the reclamations of American citizens for losses and injuries growing out of the Cuban insurrection.

The undersigned sees with satisfaction that the President of the United States is convinced of the sincere desire of the Spanish government to arrive, as soon as possible at a practical solution which, without infringing the principles of equity and justice that animate the two nations, will result in a happy termination of this question.

For this purpose, and in order to confirm this just confidence, it is indispensable to add a few explanations to the note of December 19, which, by reason of a misapprehension of its meaning or insufficient clearness in expressing the propositions therein contained, has given rise to the observations made by you. I propose to answer these, in the hope that, certain doubts being cleared away, and certain principles duly fixed, the proposal of the government of His Majesty will, in the end, be found to deserve complete acceptance on the part of the United States.

In the different notes addressed to you upon this important question by this ministry of state, the Spanish government has uniformly expressed its unaltered purpose to scrupulously observe the stipulations of the treaty celebrated in 1795, between Spain and the United States, since in this it but obeys its good faith and its loyalty to the cordial relations that since that time have uninterruptedly existed between the two countries.

This starting-point, which we have never lost sight of in the course of this negotiation, is the one that will most certainly lead to a satisfactory termination, narrowing the matter thenceforth to perfectly defined limits, and rendering unnecessary any discussion whatever in the field of the general principle of the law of persons or in that of international private law.

This consideration, moreover, relieves me from the not difficult task of disproving the relevancy of several citations from writers of high authority, brought forward in your note to prove the cases in which reparation is made on the part of one state to the subjects of another power, since your excellency cannot fail to recall how many inexhaustible sources allure the student of this branch of the law, who may seek therein reasons and arguments to support or impugn in turn all that, not being derived from the province of theory, as yet holds no fixed place in written law.

Neither is there any need to pause to demonstrate the lack of foundation of certain examples adduced by you in your note, endeavoring to prove how the subjects or citizens of one power may not be held subject to the jurisdiction of the tribunals of a foreign nation, within whose territory the laws have been violated. The example of the treaties celebrated between Spain and the countries of the east, cited by you, is not, in truth, upon even slight consideration, one which can carry conviction to the mind of any one in this connection. In those treaties, framed in an identical spirit by Spain and by other European nations, stipulations are made for a special legislation, called for by the high interests of civilization, and also by other considerations of a special character, which do not exist in other states, and which cannot be even indirectly attributed to them without injuring their standing among nations.

There is, lastly, another error in the note to which I have the honor to reply, which cannot pass without comment, inasmuch as it affects our constitutional rights and the independence of the powers of the State in the exercise of their elevated functions. You seem to regard it as an accepted fact that the "alien right" (*fuero de extranjeria*) conceded in Spain to the subjects of other powers, and by which their protection was confided to the jurisdiction of military tribunals, was under the immediate direction and supervision of the crown, all the judgments pronounced by such tribunals being subject to the revision and sanction of the monarch. In all this there is an evident misconception. Before the decree of the 6th of December, 1868, which established the unification of jurisdictions, the captain-generals of districts were, in effect, the protectors of foreigners, and before them the latter enjoyed the privilege of foreign citizenship; but the consideration, trial, and decision of the cases brought to the notice of the said authorities took place with the assistance of a magistrate of the judicial class, called the *auditor of war*; and he it was who pronounced the sentence. From these judgments an appeal was heard by the tribunal then called the supreme tribunal of war and of the navy, which definitively confirmed or revoked them, but without any kind of intervention on the part of the executive power.

Coming now to the principal object contemplated by the government of His Majesty in this reply, which is, as before said, to set in their true light and give the proper signification to the propositions presented on the 19th of December, I shall commence by stating to you that, in claiming for the judgments of the tribunals of justice the profound respect accorded in all countries to judicial decisions considered as a result of the independence of each state, the Spanish government could not have confused the simplest principles of public law or of the law of persons, nor have attempted to overstep the limits set to the jurisdiction of its legitimate sovereignty. Its purpose was solely to save the independence of the judicial power in all matters referring to the essential features of its judgments, and the ordinary formalities of legal proceedings; but if it appears that the latter have not been complied with, and especially that the guarantees and stipulations in favor of the two contracting parties in the treaty of 1795 have been infringed, the decisions of the tribunals are undoubtedly subject to arbitration, and will have to be adjudged by the commission. So that if, by chance, any American citizen should present a reclamation against the sentence or decision pronounced by a tribunal or military commission of the island of Cuba arising from the insurrection, and if it shall appear that in his case any of the ordinary proceedings were not observed in the judgment, or that the guarantees enumerated in the seventh article or in any other of the treaty were infringed, the arbitrators shall have power to invalidate such decision, and to award, in consequence, the indemnity that may be equitably due.

This explanation of the first of the propositions of the note of December 19 will not only make known to you the purpose of the government of His Majesty to respect the before-cited convention, but will also show the slight foundation there is for your supposition, in the note to which I have the honor to reply, that the Spanish govern-

ment does not assume in the same manner and in equal proportion the responsibility of the acts of its authorities in Cuba, whether military, civil, or judicial.

Neither has the government of His Majesty asserted, as you are inclined to think, that the judgments of the civil and military tribunals of Cuba concerning the naturalization of Spanish subjects as citizens of the United States, should be accepted and recognized by the North American Government. It is sufficient to enunciate this proposition in these terms, to perceive that it has been mistakenly interpreted. What the government of His Majesty requires, with perfect justice and consistency, is that those American citizens against whom proceedings may have been instituted or decisions pronounced by the Spanish authorities, should have alleged at the time of making reclamation against their enforcement their quality as foreigners, without which they have no right to the guarantees of the treaty. Those who, after the lapse of the necessary opportunity, may have omitted to comply with this requirement, may be naturally separated into two classes—either they who have not been able to prove their supposed nationality, or, in the exercise of a legitimate right, they have submitted with good grace to the jurisdiction of the Spanish authorities; and it is clear that in neither case do they possess the right to have their claims investigated by the commission.

It might, however, happen that some, having alleged their nationality at the proper time, may have seen their assertion disallowed by the tribunals, or by the Spanish authorities in Cuba. Those who are found in this class will sustain no prejudice if they submit anew to the commission of arbitration the definitive decision of their personality, and this being decided will correspondingly affect the claims presented.

The Spanish government having, therefore, fixed with all possible clearness and precision on its part the basis which, in its judgment, will reconcile the interests of the two countries in the adjustment of the reclamations of American citizens by means of the proposed commission, it only remains to call your attention to the concluding portion of your note, in which you are involuntarily led into a contradiction.

You are pleased to recommend all possible activity in the settlement of this matter, in order that both cabinets being in accord, it may be practicable to submit the result to the examination and approval of the Congress at Washington, now near the termination of its session. This course is indicated for the first time in your note of the 8th instant, not having been mentioned in any of your previous communications relative to this question, in which, on the contrary, all your efforts were directed to heightening the necessity of authorizing the representative of Spain in Washington, without loss of time, to proceed to name one of the arbitrators and to inaugurate the labors of the commission. The government of His Majesty, being no less desirous on its part of terminating this matter, does not merely consider the intervention of the legislative body of either country unnecessary, but also fears that the American Congress, being overburdened with the numerous affairs which usually accumulate in the last days of its session, may not, even with the best exertions, avoid the postponement of the approbation of the present basis, the consequent delay being to the prejudice of all parties. The government of His Majesty, therefore, deems it preferable that the proposed settlement should be effected by a simple exchange of notes, thus economizing the time that would necessarily have to be devoted to the approval of the convention, and the interchange of the ratification of the same; if the arrangement were made in the form of a convention, which, on the other hand, does not appear to be entirely regular, especially as the celebration of a new compact is not contemplated nor even the modification of the existing treaty, but rather the application of its provisions in a special case.

Desiring, lastly, to sum up what I have already set forth in the present note, and to reduce to definite form the propositions the Spanish government deems suitable, to be presented for the consideration of that of the United States, I have the honor to propose the following bases:

First. The commission of arbitrators shall take cognizance of and adjudge reclamations preferred by American citizens against acts of the Spanish authorities in Cuba, and also reclamations made by American citizens against the judgments of the tribunals or military commissions of Cuba, for the sole purpose of investigating and deciding whether the forms of law have been observed in those adjudications, and especially whether the guarantees consigned in the treaty of 1795 have been complied with.

Second. The commission of arbitration shall also take cognizance of the reclamations of those Spaniards naturalized as American citizens who, having asserted their acquired nationality before the tribunals or military commissions, have had their allegations disallowed. In these cases the commission of arbitration shall have full powers to decide whether the claimants possess the qualifications of American citizens or not. The commission having recognized the quality of American citizenship in the claimants, they will possess all the rights to which the first paragraph refers.

Third. Those naturalized Spaniards who failed to allege their character as foreigners before the tribunals or Spanish authorities, shall have no right to a hearing before the commission. The failure to assert their nationality shall be accepted as a submission to the tribunals and authorities of Spain in Cuba.

Fourth. The Spanish government and that of the United States shall each respect-

ively name one person to represent it before the commission of arbitrators, and these shall have power to examine and verify the authenticity of the documents presented by the claimants, and to speak in defense of the interests of their respective governments.

Fifth. The present bases having been approved and accepted, the corresponding document shall be drawn up and exchanged by means of notes between the two governments of Madrid and Washington.

Sixth. The Spanish government and that of the United States shall reciprocally bind themselves to give full respect to and to comply in every particular with the decisions of the commission of arbitration.

I improve this opportunity to reiterate to you the assurances of my most distinguished consideration.

CHRISTINO MARTOS.

The MINISTER Plenipotentiary of the United States.

No. 366.

Mr. Sickles to Mr. Fish.

No. 277.]

LEGATION OF THE UNITED STATES,
Madrid, February 4, 1871. (Received March 1.)

SIR: The following is the text of a telegraphic dispatch sent this afternoon to the Department of State at Washington, through the Spanish ministry of state, in the same manner as my telegram of the 30th ultimo:

HAMILTON FISH, *Secretary of State, Washington:*

Your telegram of 1st instant read to minister of state. He agrees to this reply:

Proof of the desire of this cabinet to settle reclamations promptly is seen in their proposal to avoid delay and formalities of a convention. Roberts will receive full powers, as in Aspinwall case, when bases are settled here. Judgments of Spanish tribunals pronounced in the absence of defendants, or in violation of international law or of treaty, may be reconsidered by the arbitrators. It is also proposed that, when naturalized Spaniards have appeared before Spanish tribunals in Cuba without asserting American nationality, they shall be presumed to have waived or renounced their new allegiance.

My telegram of January 26 was shown to minister before transmission. He now re-affirms its contents.

Your instructions of January 28 not yet received.

SICKLES.

MADRID, *February 4—5 p. m.*

I am, &c.,

D. E. SICKLES.

No. 367.

Mr. Sickles to Mr. Fish.

No. 280.]

LEGATION OF THE UNITED STATES,
Madrid, February 9, 1871. (Received March 3.)

SIR: General Badeau reached Madrid on Wednesday, the 8th instant, and delivered to me the text of your telegram of the 28th ultimo, forwarded through the legation at London. I immediately draughted, and on the following day handed to the minister of state, in a personal interview, the note of which the inclosed is a copy, containing the bases of

arbitration proposed on our part. I remarked to Mr. Martos that if he agreed to the conditions named, he was at liberty to regard the communication as official, and if he found occasion to suggest any modification, he might treat it as a draught submitted for revision, and return it to me with such amendments as he desired made. I stated that the same messenger who had brought me your final instructions was directed to wait and take with him my report of the conclusion of the negotiation, in order that it might reach Washington before the adjournment of the present Congress, on the 4th proximo.

His excellency promised to give early attention to the subject, and before I took leave of him he sent for Mr. Millan y Caro, the official in charge of the papers, and requested him to translate my note at once, and to have all the documents relating to the matter in readiness for examination on the following day.

I am, &c.,

D. E. SICKLES.

LEGATION OF THE UNITED STATES,
Madrid, February 7, 1871.

SIR: Referring to our several conferences, and to the correspondence which has taken place on the subject, I have the honor to submit for your approval the following memorandum of the proposed arbitration for the settlement of the claims of corporations, companies, or citizens of the United States, against the government of Spain, for wrongs and injuries committed against their persons and property or against the persons and property of citizens of the United States, now deceased, by the authorities of Spain in or about the island of Cuba, since the commencement of the present insurrection.

1. It is agreed that all such claims shall be submitted to arbitrators, one to be appointed by the Secretary of State of the United States, another by the envoy extraordinary and minister plenipotentiary of Spain at Washington, and these two to name an umpire, who shall decide all questions upon which they shall be unable to agree; and in case the place of either arbitrator or of the umpire shall from any cause become vacant, such vacancy shall be filled forthwith in the manner herein provided for the original appointment.

2. The arbitrators and umpire so named shall meet at Washington within one month from the date of their appointment, and shall, before proceeding to business, make and subscribe a solemn declaration that they will impartially hear and determine, to the best of their judgment, and according to public law and the treaties in force between the two countries and these present stipulations, all such claims as shall, in conformity with this agreement, be laid before them on the part of the Government of the United States; and such declaration shall be entered upon the record of their proceedings.

3. Each government may name an advocate to appear before the arbitrators or the umpire, to represent the interests of the parties respectively.

4. The arbitrators shall have full power, subject to these stipulations, and it shall be their duty, before proceeding with the hearing and decision of any case, to make and publish convenient rules prescribing the time and manner of the presentation of claims, and of the proof thereof; and any disagreement with reference to the said rules of proceeding shall be decided by the umpire. It is understood that a reasonable period shall be allowed for the presentation of the proofs; that all claims, and the testimony in favor of them, shall be presented only through the Government of the United States; that the award made in each case shall be in writing, and, if indemnity be given, the sum to be paid shall be expressed in the gold coin of the United States.

5. The arbitrators shall have jurisdiction of all claims presented to them by the Government of the United States for injuries done to citizens of the United States by the authorities of Spain, in Cuba, since the 1st day of October, 1868. Adjudications of the tribunals in Cuba, concerning citizens of the United States, made in the absence of the parties interested, or in violation of international law, or of the guarantees and forms provided for in the treaty of October 27, 1795, between the United States and Spain, may be reviewed by the arbitrators, who shall make such award in any such case as they shall deem just. No judgment of a Spanish tribunal disallowing the affirmation of a party that he is a citizen of the United States shall prevent the arbitrators from making a reclamation presented in behalf of said party by the United States Government; nevertheless, in any case heard by the arbitrators, the Spanish government may avise the allegation of American citizenship, and thereupon competent and sufficient

proof thereof will be required. And it is further agreed that the arbitrators shall not have jurisdiction of any reclamation made in behalf of a native-born Spanish subject naturalized in the United States, if it shall appear that the same subject-matter having been adjudicated by a competent tribunal in Cuba, and the claimant having appeared therein, either in person or by his duly appointed attorney, and being required by the laws of Spain to make a declaration of his nationality, failed to declare that he was a citizen of the United States; in such case, and for the purposes of this arbitration, it shall be deemed and taken that the claimant, by his own default, had renounced his allegiance to the United States; and it is further agreed that the arbitrators shall not have jurisdiction of any demands growing out of contracts.

6. The expenses of the arbitration will be defrayed by a percentage to be added to the amount awarded. The compensation of the arbitrators and umpire shall not exceed \$3,000 each; the same allowance shall be made to each of the two advocates representing respectively the two governments; and the arbitrators may employ a secretary, at a compensation not exceeding the sum of \$5 per day for every day actually and necessarily given to the business of the arbitration.

7. The two governments will accept the awards made in the several cases submitted to the said arbitration as final and conclusive, and will give full effect to the same in good faith and without delay.

I avail myself of this occasion to renew to your excellency the assurances of my most distinguished consideration.

D. E. SICKLES.

His Excellency the MINISTER OF STATE.

No. 368.

Mr. Sickles to Mr. Fish.

No. 281.]

LEGATION OF THE UNITED STATES,
Madrid, February 10, 1871. (Received March 3.

SIR: This being the usual reception day at the ministry of state, I availed myself of the opportunity to pay my respects to Mr. Martos, and to ask for a reply to my note dated the 7th instant. After a brief allusion on my part to the topics of the day, the minister stated that he had read my note attentively, and found it entirely satisfactory in all essential particulars; that he noted a few slight amendments, to which he has no doubt I would assent, as they would remove any possible ground for conflicting interpretations of the articles in question. He then sent Mr. Millau y Caro, the official in charge of the papers, and read to me the modifications he desired. They did not in any manner deviate from your instructions, and I assented to them. Mr. Martos then stated that his amendments would be put in form and sent to me, to be incorporated in an engrossed copy of our agreement, which I promised to submit to him for his approval. I reserve my comment upon these amendments for the dispatch transmitting a translation of them.

I am, &c.,

D. E. SICKLES.

No. 369.

Mr. Fish to General Sickles.

No. 164.]

DEPARTMENT OF STATE,
Washington, February 10, 1871.

SIR: With reference to your dispatch of the 10th ultimo, No. 247, transmitting a copy of your note of the 8th ultimo, in reply to Mr. Sagasta's

communication of the 19th of December last, upon the subject of reclamations for injuries to citizens of the United States in Cuba, I have the pleasure of expressing to you my high appreciation of your note to the minister of state, as a very able statement and argument presenting the views of the Government of the United States.

I am, &c.,

HAMILTON FISH.

No. 370.

Mr. Sickles to Mr. Fish.

No. 287.]

LEGATION OF THE UNITED STATES,
Madrid, February 12, 1871. (Received March 3.)

SIR: I have the honor to transmit herewith inclosed translation of a note from the minister of state, dated yesterday, together with a translation of a paper inclosed therein, containing the several amendments suggested by Mr. Martos to the articles of agreement proposed in my note to him dated the 7th instant. I have already reported to you, in my No. 281, my assent to these modifications of my draught.

The omission of the words "corporations" and "companies" does not exclude the claims of corporate bodies or of associations, since they are, nevertheless, embraced in the more general description of the person whose injuries may be redressed by the arbitrators. Mr. Martos said he preferred to follow the phraseology descriptive of the claimants that we had heretofore employed in our correspondence.

The amendment to the clause designed to admit as claimants the legal representatives of deceased sufferers widens the scope of the original text, because, as amended, alien heirs may have indemnity if the injured parties were citizens of the United States.

The phrase "within the maritime jurisdiction thereof" substituted for "or about the island of Cuba," is more technical than the words in the original text, which were taken from your instruction No. 122. If the Spanish naval forces have committed depredations upon our commerce beyond the maritime jurisdiction of Spain, I presume you would prefer to treat such aggressions separately. On the other hand, it may be supposed that this Government will insist that its authority has only been exercised in waters or on territory within its exclusive jurisdiction, so that no claims arising out of injuries to our commerce that we choose to present to the arbitrators will be excluded by the acceptance of the more definite terms proposed by Mr. Martos.

The amendment proposed to article 5 is a mere amplification of the text.

The substitution of the words "as soon as possible" for the words "without delay," is attributable to the meaning given to the literal translation of the latter into Spanish, which the minister intimated was somewhat too peremptory for a document recognizing the good faith and the high sense of honor of both parties.

These amendments have been incorporated in an engrossed copy of the articles, which I have to-day sent to the ministry of state.

I am, &c.,

D. E. SICKLES.

[Translation.]

MINISTRY OF STATE,
Madrid, February 11, 1871.

SIR: I have carefully examined the memorandum which you were pleased to send me in reference to the manner of accomplishing the settlement of the reclamations of citizens of the United States, in consequence of the insurrection in the island of Cuba, and finding that it conforms to what has been agreed upon and accepted in the different conferences we have held on the subject, and to the spirit of the communications that have passed between your legation and this ministry of state, I have much satisfaction in stating to you that the government of his majesty accepts the bases agreed upon, as you have prepared them, with the slight modifications that for greater clearness and precision I have the honor to suggest to you, and that when you are so disposed, the drawing up of the necessary document may be proceeded with, in order that there may be no delay in the definitive conclusion of this matter.

I avail myself of this opportunity to reiterate to you the assurances of my most distinguished consideration.

CRISTINO MARTOS.

The MINISTER PLENIPOTENTIARY OF THE UNITED STATES.

[Translation.]

MINISTRY OF STATE.

Memorandum.—In order to avoid interpretations and doubts which might embarrass the commission of arbitration in the execution of its work, the words "*corporations*" and "*companies*" may be struck out from the first lines of the memorandum presented by General Sickles. For the same reason there should be added, after the words "*citizens of the United States*," the following, "*or their heirs*," (*ó sus herederos*.) the paragraph which speaks of American citizens now deceased (*que hayan fallecido*) being suppressed as unnecessary.

In place of the somewhat vague expression "*in or about the island of Cuba*," greater precision can be given to the phrase by saying *in the island of Cuba, or within its maritime jurisdiction*, (*en la isla de Cuba ó en sus aguas jurisdiccionales*.)

The stipulations numbered 1, 2, 3, and 4 conform entirely to what has been agreed upon.

In the fifth, after the declaration that "the Spanish government may traverse *is allegation of American citizenship*," there should be added the following paragraph taken from the second of the bases proposed with the note of the 30th of last January: "*To commission having recognized the quality of American citizens in the claimants, they acquire the rights accorded to them by the present stipulations as such citizens*," (*Una vez reconocida por la comision la calidad de ciudadanos Americanos en los reclamantes, obtendrán estos los derechos que como á tales ciudadanos les reconocen las presentes estipulaciones*.)

In the 7th or last, the expression "*without delay*" may be replaced by the following and as soon as possible, (*y á la posible brevedad*.)

MARTOS.

No. 371.

Mr. Sickles to Mr. Fish.

No. 288.]

LEGATION OF THE UNITED STATES,
Madrid, February 12, 1871. (Received March 3.)

SIR: I have the honor to forward herewith a copy of a communication of yesterday's date addressed by me to the minister of state, embodying the agreement made by me on the part of the Government of the United States with Mr. Martos, representing that of Spain, for the settlement by arbitration of the reclamations of American citizens for injuries done to them by the Spanish authorities in Cuba during the present insurrection in that island. I have the honor to inclose also a translation of the reply of the minister of state of this day's date, assenting to the articles of agreement embodied in the aforesaid communication.

I am, &c.,

D. E. SICKLES.

LEGATION OF THE UNITED STATES,
Madrid, February 11, 1871.

SIR: I have had the honor to receive the note of to-day's date addressed to me by your excellency, proposing certain modifications of the plan of arrangement submitted to you on the 7th instant, for the adjustment of the reclamations made by my Government against that of Spain. I take much pleasure in stating that the changes suggested in the memorandum inclosed in your note have my entire concurrence, and have been duly embodied in the following record of the bases upon which we have agreed.

Memorandum of an arbitration for the settlement of claims of citizens of the United States, or of their heirs, against the government of Spain for wrongs and injuries committed against their persons and property, or against the persons and property of citizens of whom the said heirs are the legal representatives, by the authorities of Spain in the island of Cuba, or within the maritime jurisdiction thereof, since the commencement of the present insurrection:

1. It is agreed that all such claims shall be submitted to arbitrators, one to be appointed by the Secretary of State of the United States, another by the envoy extraordinary and minister plenipotentiary of Spain at Washington, and these two to name an umpire who shall decide all questions upon which they shall be unable to agree, and in case the place of either arbitrator or of the umpire shall from any cause become vacant, such vacancy shall be filled forthwith in the manner herein provided for the original appointment.

2. The arbitrators and umpire so named shall meet at Washington within one month from the date of their appointment, and shall, before proceeding to business, make and subscribe a solemn declaration that they will impartially hear and determine, to the best of their judgment and according to public law and the treaties in force between the two countries and these present stipulations, all such claims as shall, in conformity with this agreement, be laid before them on the part of the Government of the United States, and such declaration shall be entered upon the record of their proceedings.

3. Each government may name an advocate to appear before the arbitrators or the umpire to represent the interests of the parties respectively.

4. The arbitrators shall have full power, subject to these stipulations, and it shall be their duty before proceeding with the hearing and decision of any case, to make and publish convenient rules prescribing the time and manner of the presentation of claims and of the proof thereof; and any disagreement with reference to the said rules of proceeding shall be decided by the umpire. It is understood that a reasonable period shall be allowed for the presentation of the proofs; that all claims and the testimony in favor of them shall be presented only through the Government of the United States; that the award made in each case shall be in writing, and, if indemnity be given, the sum to be paid shall be expressed in the gold coin of the United States.

5. The arbitrators shall have jurisdiction of all claims presented to them by the Government of the United States for injuries done to citizens of the United States by the authorities of Spain in Cuba, since the 1st day of October, 1868.

Adjudications of the tribunals in Cuba concerning citizens of the United States made in the absence of the parties interested, or in violation of international law, or of the guarantees and forms provided for in the treaty of October 27, 1795, between the United States and Spain, may be reviewed by the arbitrators, who shall make such award in any such case as they shall deem just. No judgment of a Spanish tribunal disallowing the affirmation of a party that he is a citizen of the United States shall prevent the arbitrators from hearing a reclamation presented in behalf of said party by the United States Government. Nevertheless, in any case heard by the arbitrators the Spanish government may traverse the allegation of American citizenship, and thereupon competent and sufficient proof thereof will be required. The commission having recognized the quality of American citizens in the claimants, they will require the rights accorded to them by the present stipulation as such citizens. And it is further agreed that the arbitrators shall not have jurisdiction of any reclamation made in behalf of a native-born Spanish subject naturalized in the United States if it shall appear that the same subject-matter having been adjudicated by a competent tribunal in Cuba, and the claimant having appeared therein either in person or by his duly-appointed attorney, and being required by the laws of Spain to make a declaration of his nationality failed to declare that he was a citizen of the United States, in such case and for the purposes of this arbitration it shall be deemed and taken that the claimant, by his own default, had renounced his allegiance to the United States. And it is further agreed that the arbitrators shall not have jurisdiction of any demands growing out of contracts.

6. The expenses of the arbitration will be defrayed by a percentage to be added to the amount awarded. The compensation of the arbitrators and umpire shall not exceed three thousand dollars each. The same allowance shall be made to each of the two advocates representing respectively the two governments, and the arbitrators may employ a secretary at a compensation not exceeding the sum of five dollars a day for every day actually and necessarily given to the business of the arbitration.

7. The two governments will accept the awards made in the several cases submitted to the said arbitration as final and conclusive, and will give full effect to the same in good faith and as soon as possible.

I avail myself of this opportunity to renew to your excellency the assurances of my most distinguished consideration.

D. E. SICKLES.

His Excellency MINISTER OF STATE.

[Translation.]

MINISTRY OF STATE,
Madrid, February 12, 1871.

SIR: I have had the honor to receive the note you were pleased to address me under date of yesterday, communicating to me the definitive record of the memorandum in reference to the manner of arranging the settlement of the reclamations of citizens of the United States consequent upon the insurrection in the island of Cuba, and as in drawing up this document, you have kindly incorporated the slight modification I proposed to you, for greater clearness and precision, in my note of yesterday in answer to yours of the 7th, I take pleasure in informing you that I entirely concur in the contents of the said memorandum.

I improve this occasion to renew to you the assurances of my most distinguished consideration.

CRISTINO MARTOS.

The MINISTER PLENIPOTENTIARY of the United States of America.

No. 372.

Mr. Sickles to Mr. Fish.

No. 289.] MADRID, *February 13, 1871.* (Received March 9.)

SIR: I have the honor to forward herewith a translation of a note from the minister of state, dated 4th instant, and received on the 9th, in reply to mine of July 16, 1870, acquainting me with the favorable action of the Spanish government upon the several representations made in that communication in obedience to your instructions No. 66, with reference to the oppressive regulations enforced against foreign vessels in the ports of the island of Cuba.

The Department may desire to send to the consul general at Havana the text of the minister's communication, and I therefore inclose a copy of the original in Spanish.

I am, &c.,

D. E. SICKLES.

[Translation.]

MINISTRY OF STATE,
Madrid, February 4, 1871.

MY DEAR SIR: I have received the reports of the minister for the colonies respecting the note of your excellency dated 16th July last, in which you requested that certain reforms be introduced in the customs regulations for the island of Cuba, so as to stop the injuries of which the captains of North American vessels have complained, and in answer thereto I have the honor to inform your excellency that the principal wishes expressed in your above-mentioned note are fulfilled.

Captains of foreign vessels are no longer required to declare the tonnage of their vessels in Spanish measure, it being sufficient on the first voyage for them to make such declaration in conformity with the builder's measurement, or according to the

measurement of the respective nations to which they belong, being, however, obliged thereafter to show certificates of the measurement that shall have been used for the collection of tonnage dues, as laid down in the order of 9th of July last.

Respecting fines inflicted on captains of vessels for informalities in their manifests, or for not having presented them, in addition to the cargo list certified by the Spanish consul at the port from whence they sail, considering that in these omissions there was no intention to defraud, the said fines have been remitted in those cases in which the vessels had entered the ports of the island of Cuba since the 19th of December, 1863, that being the date when the order of the provisional government of the 11th of November then last past commenced to be in force.

The evidence hitherto required to exonerate the masters of foreign merchant vessels having been the occasion of reclamations, the administration has taken the matter into consideration, and instead of demanding certificates of the port captains, as heretofore, it is now ordained that a certificate shall be furnished from the consul at the port of arrival, showing that, according to the log-book, the vessel had not before entered a port of the island, the consuls being at liberty to ask from the captain such other facts as may appear necessary to certify with exactitude upon the matter. The fines were legally inflicted, and in remitting them the government has acted in conformity with sentiments of equity and deference. Your excellency will therefore understand that captains subjected to fines have the means to exempt themselves from payment if they fulfill the conditions indicated.

Touching the request to modify the regulations in force, it will be taken into consideration by the board engaged in the compilation of the new orders and regulations for the customs of the colonies, which will endeavor to conciliate as far as possible the interests of legitimate commerce with those of the public treasury.

I avail myself of this occasion to reiterate to your excellency the assurances of my most distinguished consideration.

C. MARTOS.

The MINISTER PLENIPOTENTIARY of the United States.

No. 373.

Mr. Fish to General Sickles.

No. 195.]

DEPARTMENT OF STATE,

Washington, May 4, 1871.

SIR: I transmit a copy of the protocol of the second conference between the representative of Spain and those of the allied republics of the Pacific, which was held here on the 11th ultimo. A duplicate of the articles of armistice to which it refers is also herewith transmitted. The latter you will communicate to the minister for foreign affairs of Spain with a suggestion that the ratification of that government should also be executed in duplicate, for exchange here with the representatives of each of the parties respectively, to be sent by separate conveyance. This course seems advisable with a view to guard against delay in the exchange through any possible hazards and casualties incident to communication by sea.

I am, sir, your obedient servant,

HAMILTON FISH.

Protocol of the peace conference held in Washington on the 11th day of April, 1871, the Secretary of State of the United States presiding, between the Plenipotentiaries of Spain, Bolivia, Chili, Ecuador, and Peru.

The plenipotentiaries of Spain, and of the allied republics of South America, having met at the Department of State in Washington on the 11th day of April, 1871, the Secretary of State ordered the reading of the proceedings of the previous session, and this having been approved he inquired whether Bolivia was represented as he understood.

To this the plenipotentiary of Peru replied that he had been appointed plenipotentiary *ad hoc* by the government of Bolivia, but that he could not make use of his powers before receiving the acquiescence of his government; that he would therefore act *ad referendum*, in the name of Bolivia.

This declaration having been accepted, the powers conferred by the government of Bolivia were exhibited, which were found to be in good and due form.

A discussion followed, of the different articles, between the Secretary of State and the plenipotentiaries, after which the conditions of the armistice were definitely laid down in the terms of the convention signed this day.

HAMILTON, FISH

Secretary of State.

MAURICIO LOPEZ ROBERTS,

Plenipotenciario de España.

MAN'L FREYRE,

Ministro del Peru.

MAN'L FREYRE,

En representacion de Bolivia.

JOAQUIN GODOY,

Plenipotenciario de Chili.

ANTO FLORES,

Plenipotenciario del Ecuador.

Articles of armistice between Spain, on the one hand, and the allied republics, Bolivia, Chili, Ecuador and Peru, on the other.

The mediation of the United States having been offered and accepted towards relieving Spain and the allied republics of the Pacific from the technical state of war which has existed since the hostilities of 1866, the President of the United States has, for this purpose, conferred full powers upon Hamilton Fish, Secretary of State.

His Catholic Majesty has conferred like powers on Mauricio Lopez Roberts, Knight Grand Cross of the Royal Order of Isabel the Catholic; Knight General Cross of the Order of Christ, of Portugal, grand officer of those of the conception of Portugal, and of Leopold of Belgium; Knight Commander of the Legion of Honor of France, superior chief of administration, deputy in various legislatures, envoy extraordinary and minister plenipotentiary of His Majesty Amadeo I, King of Spain, to the United States of America.

The President of the republic of Bolivia has conferred like powers on Colonel Manuel Freyre, envoy extraordinary and minister plenipotentiary of Peru to the United States of America.

The President of the republic of Chili has conferred like powers on Joaquin Godoy, envoy extraordinary and minister plenipotentiary of that republic to the United States of America.

The President of the republic of Ecuador has conferred like powers on Antonio Flores, a senator of that republic, and its minister plenipotentiary *ad hoc*.

And the President of the republic of Peru has conferred like powers on Colonel Manuel Freyre, envoy extraordinary and minister plenipotentiary of that republic to the United States of America. And the said plenipotentiaries having exchanged the full powers, which were found in due and proper form, have agreed upon the following articles:

ARTICLE I. The suspension of hostilities existing *de facto* between Spain, on the one hand, and the allied republics of Bolivia, Chili, Ecuador, and Peru, on the other, is converted into a general armistice or truce.

ARTICLE II. This armistice shall continue indefinitely and cannot be broken by any of the belligerents, save in three years after having expressly and explicitly notified the other of its intention to renew hostilities. In this case, such notification must be made through the Government of the United States.

ARTICLE III. Each of the belligerents, during the continuance of this armistice, shall be at liberty to carry on commerce freely with neutral nations in all articles in which trade is considered lawful in a state of peace, all restriction on neutral commerce therefore ceasing.

ARTICLE IV. The present agreement shall be ratified by the respective governments and the instruments of ratifications shall be exchanged at the Department of State at Washington within four months from date.

ARTICLE V. Those governments which shall not have sent their ratification within the time fixed in the preceding article may make the exchange separately in the two months following.

ARTICLE VI. If any one of the governments, on account of circumstances over which it has no control, shall not be able to effect the exchange of the ratifications within the terms fixed in the foregoing articles, such delay shall be granted it as it may request from the other party without necessity for a new agreement.

ARTICLE VII. The proceedings for the ratification and exchange shall not interfere with the continuation of the conferences designed for the negotiation of a peace.

In testimony of the stipulations made in the foregoing seven articles, the undersigned, Secretary of State of the United States, in the character of mediator, and the plenipotentiaries of Spain, Bolivia, Chili, Ecuador, and Peru, have signed the foregoing agreement at the Department of State at Washington on the eleventh day of April, 1871.

HAMILTON FISH.
 MAURICIO LOPEZ ROBERTS,
Plenipotenciario de España.
 MAN'L. FREYRE,
Plenipotenciario del Peru.
 JOAQUIN GODOY,
Plenipotenciario de Chili.
 ANTONIO FLORES,
Plenipotenciario del Ecuador.
 MAN'L. FREYRE,
Plenipotenciario de Bolivia.

No. 374.

Mr. Sickles to Mr. Fish.

No. 349.]

LEGATION OF THE UNITED STATES,
Madrid, May 30, 1871. (Received June 20.)

SIR: In a recent conversation with a distinguished Spanish general, whose official employments afford him ample means of accurate information, he told me that more than forty millions of dollars had been expended for military purposes during the past year in Cuba. He did not state whether or not this large sum included any portion of the amount disbursed for the fleet of gun-boats maintained in those waters especially with reference to the insurrection.

My informant added that the aggregate force under arms exceeded one hundred thousand men, more than half of whom were regular troops, and that the losses of the army of Cuba, from the various casualties of the service, exceeded eighteen thousand men. It was his impression that the insurgent force did not number more than six thousand of all arms.

I hear from trustworthy sources, likely to be well informed, that the insurgents have lost no ground of importance; that their troops are better armed and better disciplined than heretofore; and that, in several recent actions, they have gained considerable advantages over the Spanish troops, many of whom are represented as deserting to the insurgents. Reports of the most cruel severities against prisoners of war and against non-combatants, perpetrated by both parties, continue to reach Madrid.

The consul at Cadiz informs me that several detachments of troops, destined for service in Cuba, have embarked from that port within the last two months.

I am, &c.,

D. E. SICKLES.

No. 375.

Mr. Sickles to Mr. Fish.

No. 357.]

LEGATION OF THE UNITED STATES,
Madrid, June 17, 1871. (Received July 3.)

SIR: In compliance with your instruction No. 195, I have communicated to the minister of state the duplicate of the articles of armistice

concluded between the representatives of Spain and the allied South American republics at the conference held at Washington on the 11th of April last, and at which you presided. At the same time, in an interview with his excellency yesterday, I informed him of your suggestion that the ratification of this government should also be executed in duplicate, for exchange at Washington with the representatives of each of the parties, respectively, and that these documents should be forwarded by separate conveyances, as a precaution against delay in the exchange through any possible hazard or casualty incident to communication by sea.

Mr. Martos desired me to convey to you his deep sense of the service rendered to Spain by the mediation of the United States in this proceeding, and that he hoped your good offices would be crowned with equal success in the settlement of a firm and lasting peace between Spain and the allied republics, with whom this country desired to cultivate the most friendly relations. The minister added that your suggestion with reference to the exchange of ratifications would be followed.

I am, &c.,

D. E. SICKLES.

No. 376.

Mr. Fish to Mr. Sickles.

No. 209.]

DEPARTMENT OF STATE,

Washington, June 20, 1871.

SIR: Your dispatch No. 351, of the 1st instant, has been received.

It may be premature for the Department to express an opinion in regard to the proposed new Spanish prize-code in the absence of a copy of the bill which you propose to forward hereafter, or to authorize you to protest against its application to captures off Cuba, until the bill shall become a law. The passage in the report of Mr. Beranger to which you refer seems to justify your remark in regard to the incompatibility of the application of the proposed code to captures connected with hostilities in Cuba to the claim of the Spanish government on foreign nations to regard that contest as a mere seditious movement. If, however, a proper opportunity should occur, it may not be amiss for you to refer to this subject in unofficial conversations with the minister for foreign affairs and other persons in authority.

I am, &c.,

HAMILTON FISH.

No. 377.

CORRESPONDENCE BETWEEN THE DEPARTMENT OF STATE AND THE SPANISH LEGATION AT WASHINGTON.

Mr. Lopez Roberts to Mr. Fish.

[Translation.]

WASHINGTON, *December 17, 1870.* (Received December 17.)

The undersigned, envoy extraordinary and minister plenipotentiary of Spain, has the honor herewith to send to the honorable Secretary of

State a copy of the communication which the consul of Spain at New York, in the fulfillment of his duty, addressed on the 8th instant to the district attorney of the southern district of New York, in relation to the steamer *Hornet*; and he likewise sends a copy of that which the said consul has received in reply from Mr. Noah Davis.

Since then, or rather on that same day, the steamer *Hornet* put to sea from the port of New York without the judicial authorities of the Federal Government having taken such measures to prevent her departure as should have been dictated to them by the circumstances and criminal antecedents of the aforesaid vessel. Not only has this happened, but it further clearly appears, from the annexed letter of the district attorney, that this functionary entertains the very singular opinion that, for a crime which is being committed in the territory of the United States, it is not of these (the United States) that the government of Spain ought to ask justice and the maintenance of the laws of the country, but that it ought to address the British authorities.

This intelligent and skillful lawyer, in forming such a resolution, doubtless did not previously consult the Federal Government; had he done so, he would without doubt have been reminded of the exact similarity which exists between this case of the steamer *Hornet* and those of certain vessels which, in the year 1862, left the ports of Great Britain. It is further evident to the undersigned that the Hon. Noah Davis did not consider the language used by Mr. Hamilton Fish in his dispatch of September 25, 1869, to the minister of the United States at London, when he alluded as follows to the claims which had their origin in the infractions of the law of neutrality tolerated by the English authorities during the Southern rebellion:

"We hold that the international duty of the Queen's government in this respect was above and independent of the municipal laws of England. It was a sovereign duty attaching to Great Britain as a sovereign power. The municipal law was but a means of repressing or punishing individual wrong-doers; the law of nations was the true and proper rule of duty for the government."

And further:

"But the Government of the United States has never been able to see the force of this alleged difficulty. The common law of England is the common law of the United States. In both countries, and certainly in England, revenue seizures are made daily, and ships are prevented from going to sea on much less cause of suspicion than attached to the suspected ships of the confederates."

The terms of this remarkable dispatch of Mr. Hamilton Fish are of immense importance by reason of their significance in a matter like the present, and the undersigned cannot comprehend how this can have remained unnoticed by the district attorney in writing a letter which reproduces a similar case, and of the same kind and nature as one of those which the Government of the United States has pending for settlement with Great Britain, and which may, in the end, lead Spain to think herself fully justified in bringing a claim, in the same sense, against the United States.

It is not the purpose of the undersigned now to enter upon a discussion of the points to which so grave and delicate a question may give rise; his object is only to show in this note some of the most important facts, which should not be lost sight of in the matter in question.

The steamer *Hornet* is still the property of the same individual, Macias, who purchased it from the Federal Government in 1869. The formalities ordered by law to be made for the transfer of property in

vessels were gone through in the New York custom-house by one George W. Brown, of said city. This George W. Brown has figured, since the year 1869, as the organizer of all the filibustering expeditions undertaken by the steamer *Hornet*. This same Brown is the one who, in 1869, furnished the arms, munitions, and coal necessary for this vessel when she was off the coast of Long Island preparing to commence her acts of piracy against the commerce of a friendly nation.

The undersigned feels bound to call the attention of the honorable Secretary of State to some of the main incidents which form a part of the subsequent history of this vessel, and which are public and notorious.

Mr. Hamilton Fish has certainly not forgotten the detention of the *Hornet* in the port of Wilmington. The officers and men of this pirate were indicted, and a suit which was commenced for so legitimate a cause, in which public justice was interested, was not continued. If the Federal Government had given the necessary orders for it to be continued in the courts of justice, it is not to be doubted that, at the present moment, the steamer *Hornet* would not be about to commence new and criminal adventures.

It is also the duty of the undersigned to remind the honorable Secretary of State of the incident which relates to the return of the *Hornet* on the 7th of June last to her owner Macias. Should not this restitution be considered in itself alone, and in a certain sense, as an incompressible act of neglect which has just been made more evident by the recent departure of the *Hornet*?

On the 6th of October, 1870, the steamer *Hornet* is again detained in the port of New York, on petition of the consul of Spain; but nine days afterward the order for her detention is revoked, on account of affidavits made by a certain White, and by Macias and Brown—that is, by the parties interested; the course of justice being thus altered, and the courts of the country being prevented from taking cognizance of and deciding with regard to the guilt of said vessel.

Finally, the *Hornet* gets ready to sail from New York, and the consul of Spain informs the district attorney that, according to the information which he possesses, the said vessel is going to convey an armed expedition to the island of Cuba, and the district attorney pays no regard to these statements nor to the documents presented to him, and pretending to be ignorant of the history of this pirate vessel, forgetting the names of her owner and of the agent who represents him, he replies to the consul of Spain that, from the careful examination which he pretends to have made of the cargo of the vessel, he has found, on the part of the persons dispatching her, no hostile intention. But the undersigned takes the liberty of calling the attention of Mr. Hamilton Fish to the noteworthy fact that the district attorney in no wise seeks to conceal from the consul the knowledge which he has of the future movements of the steamer *Hornet*. He admits that the vessel is, indeed, going to an intermediate port before arriving at that of her final destination. So that the whole argumentation of Mr. Noah Davis consists in throwing the responsibility upon the authorities of this intermediate port; a responsibility which must eventually rest upon the power which has permitted this pirate freely to leave one of its ports.

The undersigned regrets to find himself compelled to call the attention of Mr. Hamilton Fish to the gravity of the facts which he has just set forth, and he avails himself of this occasion to reiterate to him the assurances of his highest consideration.

MAURICIO LOPEZ ROBERTS.

NEW YORK, *December 8, 1870.*

SIR: The Secretary of State of the United States has informed his excellency the minister of Spain that all complaints or information in respect to violations of the neutrality laws of this Government to the prejudice of the lawful authority of Spain, shall be presented to you as the prosecuting officer of the United States. In obedience to this suggestion it becomes my duty to call your attention to the steamer *Hornet* now just on the eve of departure from this port upon an enterprise in violation of public law and in palpable disregard and disobedience of the proclamation of the President of the United States of October 12, 1870.

The career of this steamer is not unfamiliar to you. She was purchased from the Navy Department of this Government, as is understood, in June, 1869, in behalf of the Cuban insurrectionists. In that transaction one Macias, in whose name the steamer to-day stands in the books of the custom-house of this port, has avowed himself the purchaser. On or about August 1, 1869, the steamer was cleared at Philadelphia for Queenstown, but near Reedy Island, taken back to Philadelphia, subsequently released by orders from Washington, and sailed for Halifax, where she arrived August 18, 1869. In that port she was arrested by the British authorities, but discharged on finding no arms on board. The steamer shortly after left Halifax and at "No Man's Land," near the Massachusetts coast, took on board two sixty-pound Parrott guns and two twenty-four-pound howitzers, with complete outfit of carriages and powder, together with a great quantity of small-arms and sailors. From "No Man's Land" the steamer proceeded to the coast of Long Island Sound and to Fire Island light, where, within the jurisdiction of this Government, she took on board twenty sailors and small-stores, 150 tons of coal, provisions, marines, and naval officers; soon after this was done, the steamer put to sea, and one Higgins took command of her and announced she was a man-of-war of the republic of Cuba, changing her name to Cuba. She ran into the port of Wilmington for coal, was there seized, libeled, and claimed as belonging to the republic of Cuba. Subsequently, on June 7, 1870, the steamer was released on application of the said Fernando Macias, upon bonds, given to the satisfaction of this Government; came to the port of New York, and was placed in the hands of George W. Brown, of this city, (as agent for said Macias,) who fitted out the said steamer from this port just after she left "No Man's Land," as aforesaid.

On October 6, 1870, the steamer was again seized and libeled in this port by your direction, on the request of this consulate dated October 5, 1870, but released October 15, 1870, on affidavits of the aforesaid Macias and Brown, and one White, against the earnest protest of this consulate and that of its consul, dated October 13, 1870, to which I respectfully call your attention.

I have now information on which I rely with perfect confidence, that this steamer in the hands of said Macias and his agents is being fitted out in this port to at once sail, to take on board at sea a military expedition from Nassau of some two hundred men and military officers, which will leave there in a vessel, and another military expedition from Key West of some one hundred men under command of one Cabaleiro, after all of which, and taking on board at sea arms provided, one Cisneros (who with General Jordan was joint commander of the Perit expedition from this city) will take charge of and conduct her to the coast of Cuba.

I respectfully submit that the ownership and history of this steamer, together with her outfit on board and her preparations, easily ascertainable by this government if prompt movement be made, are sufficient to call for the exercise of the ample preventive power of this government against her departure. Trusting that, in a proper way I have complied with the disposition of this government that I lay complaints of this character before you. I hereby leave in your hands the responsibility of permitting this formidable instrument to proceed on her illegal expedition to the great injury of my government.

I may be permitted to add that at this moment the steamer has not been cleared at the custom-house.

I have, &c.,

SE DE URIARTE,
Consul General of Spain.

Hon. NOAH DAVIS,
Attorney of the United States.

Está conforme.

LOPEZ ROBERTS.

OFFICE OF THE DISTRICT ATTORNEY OF THE UNITED STATES
FOR THE SOUTHERN DISTRICT OF NEW YORK,
New York, December 8, 1870

SIR: I have this moment your favor of this date.

You accompany your letter with no proof or evidence that would authorize me to seize the *Hornet* for the alleged intended breaches of our neutrality laws, or to take

any steps beyond those I have already taken. I have caused the most rigid scrutiny to be exercised to see that the *Hornet* has taken on board nothing of a nature to indicate the hostile intentions you mention. I am advised that her intention is to clear and to sail in ballast for Nassau. What her intentions may be on reaching that port are things that remain unproven, and in no wise indicated except by the intimations of your favor. I cannot legally act on mere surmise; but if furnished with proper evidences I shall not hesitate to take any steps necessary to prevent violations of our laws. For intended violations of British laws, the remedy, if any, must be sought at the hands of British authorities.

I am, &c.,

NOAH DAVIS.

Está conforme.

LOPEZ ROBERTS.

No. 378.

Mr. Lopez Roberts to Mr. Fish.

WASHINGTON, December 17, 1870. (Received December 17.)

The undersigned, envoy extraordinary and minister plenipotentiary of Spain, regrets to be again compelled to call the attention of the honorable Secretary of State of the United States to the matter of the American steamer *George B. Upton*, and the filibustering military expedition which, in the month of May last, was conveyed by the said vessel from the port of New York to the island of Cuba. On the return of the *Upton* to New York, with its officers, crew, and three of the principal promoters of that enterprise, organized and carried out in violation of the laws of the United States, the undersigned had the honor of placing in the hands of the honorable Secretary of State copies of three affidavits made in New York by persons who formed a part of the expedition, in which was shown the true character of the same, and to request that steps might be taken to inflict due punishment not only upon the delinquent steamer, but also upon any individual guilty of having assisted on that occasion in conveying supplies of arms to the insurgents of Cuba.

In view of the observations made by the undersigned, the honorable Secretary of State ordered the matter to be investigated by the district attorney of New York, and in consequence thereof the undersigned caused to be submitted to the examination of the aforesaid authority the three affidavits aforementioned, together with the steamer's log-book.

The district attorney has not only refused to embargo the vessel, but also to bring any criminal action against its officers or against the promoters of the expedition, who then were and still are within reach of the judicial authorities of his district. He bases his refusal in regard to the vessel on the fact that, since her criminal voyage, she has been sold and is now the property of persons who, as he states, are innocent and honorable men; and in regard to the individuals, on the consideration that, in virtue of the proclamation of the President of the United States of October 12, 1870, all offenses against international or municipal law committed in this country previous to said proclamation, the object of which was to grant pardon or condonation to this class of offenses, are to be considered as pardoned or condoned.

It is important to add that, both in the matter of the steamer and of the individuals, the district attorney did not hesitate to declare his opinion that the testimony presented was sufficient to justify the adoption of the measures requested by the undersigned, and that the trans-

fer of the steamer, if a transfer was really made, to other owners took place with knowledge, on the part of the latter, of its previous guilty career, and of the punishment which, for that reason, threatened it.

The undersigned does not doubt for an instant that the Secretary of State will find in the aforesaid affidavits and in the copy of the log-book of the Upton sufficient proofs that the purchase of the vessel, the selection of its officers and crew, the recruiting and organization of the persons who went on board, the instruction which they afterward received in military drill and their landing as armed troops, the purchase and shipment of arms and munitions of war, and its clearance at the New York custom-house, constituted a military expedition commenced in this country in order to operate against the legitimate authorities in the island of Cuba, and that any person who took part therein should be considered as guilty, the acts of such being punishable by the law of the United States with fine and imprisonment.

In order to show the importance of a decision as to whether all the rigor of the penalty provided by the laws of this Government against crimes so grave as those which characterize the proceeding of the Upton should be applied to the persons principally implicated, such as Dornin, Somers, Brown, Kingsbury, Cisneros, Fernandez, and Muñoz, the undersigned begs the honorable Secretary of State to consider the following circumstances:

1st. Dornin served as second officer, Somers as ensign, and Muñoz as midshipman, on board of the steamer *Hornet*, which commenced in 1869 to make her preparations at Philadelphia, continuing the same at Queenstown, on "No Man's Land," on the coast of Massachusetts on Fire Island, near Mautauk Point, and, finally, near the light-ship stationed at the entrance of the port of New York, localities which are all within the jurisdiction of the United States, for the purpose of cruising against the commerce and destroying the property of Spain.

2d. George Brown, at that time belonging to the house of Phillips & Brown, shipping brokers, established at No. 155 South street, in New York, and now residing in said city, was the agent of the Cuban rebels for the procurement of seamen, soldiers, supplies for the vessel, and munitions of war for the aforesaid steamer *Hornet*; subsequently, on the voyage of the latter to Queenstown, and her return via "No Man's Land" to the coast of New York, where, at the distance of three miles from the revolving light at Fire Island Inlet, she received from a vessel proceeding from New York in charge of the said Brown, seamen and provisions, and still later, behind Montauk Point, about half a mile from Long Island, she received from a schooner a quantity of coal sent by the same Brown, and soon afterward, from another vessel proceeding from New York, and under the personal direction of Brown, provisions and men, with three officers named Reid, Somers, and Mason, and, finally, more men and provisions from a steamer also in charge of Brown, on a line with the light-ship at the entrance of the port of New York. Proofs are abundant that the said Brown busied himself for more than a year with the greatest zeal and quite openly in the interests of the Cuban junta of New York, and of other persons of equally evil intentions, in organizing and preparing military expeditions in that and other ports destined to operate against the legitimate authorities of the island of Cuba, and thus far he has suffered no punishment.

3d. E. B. Kingsbury, of whom mention has already been made, served as boatswain (contramarstre) of the crew of the *Hornet* and has his office at No. 155 South street, in the city of New York, at which place Brown's office was likewise when the latter furnished the equipments of

the *Hornet* and of various other expeditions against Cuba, which circumstance proves that the said individual established himself, with full knowledge of what he was doing, in the very center of the persons who are conspiring in New York against the neutrality of this country.

4th. Cisneros, who embarked on board of the *Upton* and when on the high seas assumed and exercised military command over the men who were on board, was, together with the so-called General Jordan, chief of the military expedition which left New York in May, 1869, on board of the steamer *Perit*, and landed the men and cargo on the coast of Cuba. This steamer was the property or was under the orders of Messrs. Spofford, Tileston & Co., of New York, who ordered the captain, in writing, to obey, in regard to the place and manner of effecting the landing in Cuba, the instructions which might be given him by the aforesaid Jordan and Cisneros, who were on board.

Very well, although the said individuals have been for some time in the city of New York, the district attorney has not seen fit to institute criminal proceedings for the aforesaid acts, or for any other of their numerous offenses against the laws of the United States. In order more fully to show what opinion ought to be formed as to whether the persons concerned in the expedition of the *Upton* ought to remain unpunished or not, the undersigned takes the liberty to state the following facts, viz: One Nicholas H. Sling was the person who directed the movements of the *Hornet* from the time of her departure from Philadelphia until the moment when she received her last contingent of men and munitions of war at the entrance of the port of New York, when he gave up the command to Commodore Higgins. David A. Telfair, Louis French, Chief Engineer Richard H. Gibson, Ensign Donald G. Monroe, commander of marine infantry, William D. Phillips, midshipman, and John Lynch, of the crew of said vessel, were indicted at Wilmington before Commissioner Rutherford, for offenses committed in connection with the *Hornet*, transferred from that place by order of the judge of the court of the district in which is situated Cape Fear, in North Carolina, to the eastern judicial district of New York, and, on the 8th of November, 1869, obliged to furnish bail in Brooklyn for their appearance for trial in one thousand dollars each, and yet, notwithstanding the notoriety of these acts, no steps have been taken to indict those who committed them before a grand jury, or to cause them to feel in any way the consequences of their criminal deeds. The undersigned is far from wishing to make any suggestion which could be interpreted as an interference in the administration of the laws of this country in that which relates to past offenses against neutrality, yet he cannot avoid the conviction that the Secretary of State will agree that an indulgence like the one shown toward the individuals last named, and which the district attorney proposes to observe toward the culpable participants in the expedition of the *Upton*, tends to preserve and encourage the state of things in New York relative to expeditions against Cuba, which, as the undersigned believes, is deplored by this Government no less than by that of Spain. With regard to the principal delinquents on board of the *Upton*, long known as violators of the law, it certainly seems as if they had been stimulated and encouraged by the indulgence hitherto shown them by a benevolent government. In the judgment of the undersigned, observations like those which have just been made with respect to individuals, are applicable to the determination of the district attorney not to proceed against the *Upton*. The circumstance of there being new owners, who purchased it with full knowledge of the prosecution which threatened it, should certainly

not be sufficient to set aside the culpability of the vessel, which was engaged in conveying a filibustering expedition against a nation friendly to the United States, causing the loss of many lives, and the destruction of many interests and much property. It is evident that the agents of the insurrection in Cuba, who have fixed the base of their operations in New York, need transport-vessels for the conveyance of military expeditions. If these vessels are purchased by the guilty parties and become the property of the conspirators, every consideration of justice requires that they should suffer the loss of their property, and that they should be so far prevented from engaging in future enterprises of this kind. And if there are masters of vessels who, knowing the purpose to which their property is destined, (as happened in the case of the *Perit*,) load them in order to break the laws established for the maintenance of the duties of international neutrality, they should, in the judgment of the undersigned, be made to feel the legal consequences of their conduct in the improper employment of their property. This Government has shown itself indulgent toward the *Perit*, which conveyed Jordan's first expedition; toward the *Catharine Whiting*, the *H. M. Cool*, the *Jonathan Chase*, steamers which aided in the *Ryan* expedition, and toward the *Hornet*, which was detained, first at Philadelphia, afterward at Wilmington, North Carolina, and for the third time in New York, in October, 1870.

Not one of these vessels has been brought to trial, although all have been detained, with the exception of the *Perit*, the respective district attorneys under whose jurisdiction they came consenting that they should be set at liberty.

The undersigned avails himself of this occasion to reiterate to the honorable Secretary of State the assurances of his highest consideration.

MAURICIO LÓPEZ ROBERTS.

No. 379.

Mr. Fish to Mr. Lopez Roberts.

DEPARTMENT OF STATE,

Washington, December 28, 1870.

The undersigned, Secretary of State of the United States of America, has the honor to acknowledge the receipt of the two notes which Mr. Lopez Roberts, the envoy extraordinary and minister plenipotentiary of Spain, did him the honor to address to him on the 17th instant. One of these notes incloses copies of a correspondence between the Spanish consul at New York and the district attorney of the United States for the southern district of New York, in relation to the steamer *Hornet*.

In transmitting this correspondence Mr. Lopez Roberts avails himself of the opportunity to make certain comments upon the conduct of some of the officers of the United States towards that steamer. If the undersigned correctly apprehends the purpose of that note of Mr. Lopez Roberts, its complaints relate to acts said to have been done, or omitted to be done, at two distinct periods. Those first complained of are charged as happening about the time when the correspondence took place between the Spanish consul and the district attorney. The remaining charges relate to matters that took place prior to that correspondence, and which have no connection with it. With regard to the first complaint, it would appear, from the correspondence transmitted

by Mr. Lopez Roberts, that the Spanish consul at New York, on the 8th instant, informed the district attorney for the southern district of New York that, in compliance with a supposed intimation or suggestion from the Secretary of State, he called his attention to the steamer *Hornet*, that that steamer had been formerly employed in illegal expeditions against Cuba; that she had been libeled for this at Wilmington; that on the 11th day of June last, bonds were given for her discharge, and she was released; that she was then brought to the port of New York; that the Spanish consul again made complaint against her, and she was again seized and libeled on the 6th day of October last; that, application being made for her release, a hearing was had before the court, in which the Spanish consul took part; that, as the result of that judicial hearing, she was again released; that the consul, at the date of his letter, had information, on which he relied with perfect confidence, that the steamer was being fitted out in the port of New York for the purpose of proceeding to sea, and there taking on board military expeditions from Nassau and Key West, and conducting them to the coast of Cuba; that he thought his note to a local prosecuting officer as "sufficient to call for the exercise of the ample preventive power of this Government against the departure;" and that he left in the hands of that officer the responsibility of permitting the vessel to proceed.

The district attorney appears to have replied to this note, on the same day, that there was no proof or evidence in it which would authorize him to seize the *Hornet*, or to take any steps beyond those which he had already taken; that he had caused a rigid scrutiny to be exercised in order to prevent the *Hornet* from taking on board anything indicating hostile intentions; that he had been advised that it was the purpose of that vessel to clear for Nassau; that he could not act legally on mere surmise; but that, if proper evidence were furnished, he would take any steps necessary to prevent violations of the laws of the United States.

It is further charged in Mr. Lopez Roberts's note that the steamer *Hornet* on the same day put to sea, without such steps "having been taken to prevent her departure as should have been dictated by the circumstances and criminal antecedents of the aforesaid vessel."

The undersigned has the honor, in reply to this portion of the note of Mr. Lopez Roberts, to say that it appears from this correspondence that the *Hornet*, having been seized on the complaint of the Spanish consul only two months before the date of the correspondence, and a hearing in which the Spanish consul took part having resulted in the discharge of the vessel, no subsequent proof, or anything in the nature of legal evidence other than a repetition of that which had already been passed upon by the court, and been decided to be insufficient for the detention of the vessel, had been furnished by the consul, or by any other Spanish official; that, nevertheless, the district attorney offered to again take steps to detain the *Hornet*, if proof were furnished which would warrant him in so doing, which proof was not furnished.

The undersigned takes the liberty to call the attention of Mr. Lopez Roberts to the fact that a district attorney of the United States is an officer whose duties are regulated by law, and who, in the absence of executive warrant, has no right to detain the vessels of American citizens without legal process, founded not upon surmises, or upon the antecedent character of a vessel, or upon the belief or conviction of a consul, but upon proof submitted according to the forms required by law. Although it appears to the undersigned that in this case the district attorney complied with his duty, and would not have been justified —

taking steps for the seizure of the *Hornet* in December, on the unsupported representations of the consul, after the failure of that officer to furnish the requisite proof to authorize her continued detention, yet, as Mr. Lopez Roberts seems to think that there may have been a dereliction of duty, the undersigned will transmit to the head of the Department of Justice, to whom the district attorney for the southern district of New York is subordinate, a copy of Mr. Lopez Roberts's complaint, and of the correspondence inclosed in his note.

The undersigned, in taking leave of this branch of the subject, invites the attention of Mr. Lopez Roberts to the inaccuracy of the Spanish consul at New York, when he states that "the Secretary of State of the United States has informed his excellency the minister of Spain that all complaints or information in respect to violations of the neutrality laws of this Government, to the prejudice of the lawful authority of Spain, shall be presented to you, (the district attorney,) as the prosecuting officer of the United States." It is undoubtedly true that the undersigned did request Mr. Lopez Roberts, for convenience in the judicial proceedings which might be begun, as well as to secure promptness of action in the courts when necessary, to say to the consuls of Spain that they would be authorized to lay before the prosecuting officers of the United States, without previous transmission to the undersigned through the Spanish legation at Washington, any legal proof of a violation of its laws that might be in their possession. The undersigned was thus able to show to the government of Spain that the United States would omit nothing that could be reasonably deemed essential to the performance of their duties toward Spain. But it was not the purpose of the undersigned to surrender to these subordinates the respective right and duty of making and receiving all complaints in respect to any alleged violation of the neutrality laws of this country, to the prejudice of the lawful authority of Spain. Such a proceeding would not have accorded with the dignity of this Government, or with the respect which it entertains for its ancient ally and friend. It is also reasonable to conclude from the transmission of this note to the undersigned, that Mr. Lopez Roberts regards the subject in the same light, and that when he inclosed in his note a copy of the consul's letter, he failed to consider with his usual care the latitude of its signification.

The remainder of the note, to which the undersigned is now replying, is devoted to a criticism upon the conduct of the Government of the United States with reference to the previous career of the *Hornet*. The second note of Mr. Lopez Roberts, of the same date, is devoted to the examination of the conduct of this Government toward certain other vessels and persons charged with past violations of the neutrality laws of the United States connected with previous alleged expeditions against the island of Cuba. The undersigned proposes to treat these subjects together.

Mr. Lopez Roberts claims that he has shown by satisfactory proof that the vessels known as the *Perit*, the *Catherine Whiting*, the *H. M. Cool*, the *Jonathan Chase*, the *George B. Upton*, and the *Hornet*, have been engaged in aiding the insurrection in Cuba, in such a way as to violate the laws of the United States known as the "neutrality laws." He also says that in his judgment the owners of all vessels who, "knowing the purpose for which their property is destined, load them in order to break the laws established for the maintenance of the duties of international neutrality, should be made to feel the legal consequences of their conduct in the improper employment of their property." He further gives the names of sundry persons who, in the city of New York

and elsewhere in the territory of the United States, are said to have aided and abetted in alleged violations of the laws of the United States in one or more of these expeditions. With regard to most of these persons, he sets forth with some detail a variety of acts, which were said to have been committed prior to the 12th day of October last.

It would also appear, from the statement of Mr. Lopez Roberts, that some efforts have been made by Spanish officials to induce the district attorney for the southern district of New York to proceed against some of these vessels or persons, and that he has decided that, in some of the cases, no proceedings can be had, for technical reasons that are stated in Mr. Lopez Roberts's note, and that, as to the individuals named, no proceedings can be maintained, because it is supposed by him that under the operation of the proclamation of the President of the United States, dated October 12, 1870, all offenses against international or municipal law referred to in the proclamation were pardoned or condoned.

He also complains, in the case of the *Hornet*, that the proceedings which were begun against that vessel at Wilmington were not prosecuted to final judgment and execution; and he adds that, "if the Federal Government had given the necessary orders for it to be continued in the courts of justice, it is not to be doubted that, at the present moment, the steamer *Hornet* would not be about to commence new and criminal adventures."

He complains of the restitution of the *Hornet* as "an incomprehensible act of neglect." He says that while he "is far from wishing to make any suggestion which could be interpreted as an interference in the administration of the laws of this country in that which relates to past offenses against neutrality, yet he cannot avoid the conviction that the Secretary of State will agree that such an indulgence * * * tends to preserve and encourage the state of things in New York relative to expeditions against Cuba."

It would be a sufficient answer for the undersigned, in reply to these portions of Mr. Lopez Roberts's notes, to say that his very proper disclaimer of a purpose to interfere in the administration of the laws of this country in that which relates to past offenses against neutrality, renders all these statements irrelevant. So long as the rights in the domestic tribunals of the United States which are secured to the subjects of Spain by treaty are not invaded, and so long as the officials of the United States manifest the readiness which they have ever shown to prevent attempted violations of the laws enacted to enforce their international obligations, a criticism upon the conduct of the courts of the United States in the treatment of persons charged with past offenses could not but be regarded as a step beyond the recognized bounds of diplomatic correspondence. It may not, however, be improper, while accepting the disclaimer of Mr. Lopez Roberts, to indicate to him the leading motives which prompted the benevolent act of the President and the merciful policy of this Government.

A fierce and sanguinary conflict had been raging for two years in the island of Cuba when the President's proclamation of October 12 was issued. That this conflict originated in a sense of wrongs sustained through a long series of years of misgovernment prior to the outbreak of the late revolution on the Peninsula, would probably not be denied by the eminent men who were at the head of that revolution. On the contrary, it is understood that they have been free in the expression of their regret that the Cubans would not trust the remedy of their undoubted grievances to the hands of the liberals of Spain.

In the prosecution of this contest several decrees were made by the

Spanish authorities which interfered with, or threatened to interfere with, the rights of citizens of the United States. The United States took occasion in advance to express their dissatisfaction with such decrees, and to point out how they might conflict with the rights of their citizens.

In the progress of events the sympathies of large portions of the people of the United States naturally became interested in the struggle to throw off a political connection which had entailed upon Cuba an onerous system of taxation, and which had deprived it of its autonomy. This natural feeling was increased and vivified, when it became known that the insurgents were further contending for a cause for which the American people had themselves suffered so much—the abolition of African slavery.

The Government of the United States felt constrained by its international duties not to permit itself to be controlled by this popular sympathy. The authorities of Spain denied that the insurrection possessed that civil and political organization, and that probability of success, which would require the other national powers to accord to it the right to carry on a recognized war, and this Government admitted that such was the case, and has continued so to regard it up to the present time.

In the course of the struggle, as had been foreseen, the rights of citizens of the United States were affected by the steps taken by the Spanish authorities to crush the insurrection. It being found inconvenient to refer all such cases to Madrid, Mr. Lopez Roberts was, upon the request of this Government, authorized to settle by agreement with the captain general of Cuba, without consulting the Spanish government, questions arising with this Government or its citizens, from the circumstances through which the island of Cuba was passing, except in cases of disagreement with the superior authority, or in a case of such gravity that, in the judgment of Mr. Lopez Roberts, it might require previous consultation with the government.

Under the operation of this regulation, various representations were from time to time made to Mr. Lopez Roberts by the undersigned, and questions were thus amicably adjusted, until the power was withdrawn by the government at Madrid, "*in view*," as the undersigned was afterward officially informed, "*of the favorable situation in which the island of Cuba then was.*"

It was understood here, both from representations made to the American minister at Madrid, and from the views repeatedly expressed by the Spanish minister at Washington, that the "favorable situation" referred to was the supposed extinction of an organized armed resistance to Spanish authority in Cuba.

The President did not and would not suppose that the government of Spain would lessen the means of protection to the persons and properties of citizens of the United States in Cuba, which it had extended during the insurrection at the request of this Government, unless it was convinced that the insurrection, which made it necessary, had virtually ceased. He could not and would not assume that a government which had maintained such friendly relations with this Government would voluntarily do so unfriendly an act as to withdraw, without notice, the powers conferred upon Mr. Lopez Roberts at its request, unless it was convinced that the necessity for them had ceased in consequence of the suppression of the insurrection. He was pleased to believe that, in the opinion of the Spanish government, the danger from the insurrection was over; that the time for milder measures had come, and that the blessings of peace were to follow. It did not appear to him that the re-

straints upon the commerce of the United States and upon the free movements of their citizens—measures which had been taken because the maintenance of the obligations of the United States as one of the family of nations appeared to require them—should be longer imposed. It did not seem to this Government that good could come from continuing preventive, much less punitive proceedings against individuals or vessels, when the cause which prompted the alleged illegal acts was supposed to have disappeared. It was believed to be in harmony with the humane policy which has characterized this Government, that a suspension of the rigid prosecutions of offenses (partaking of a political character) growing out of a sympathy with a political struggle in a neighboring island, might well take place. It was hoped that the benevolent example of the United States in this respect might, perhaps, be reflected in the policy of Spain toward Cuba. It was believed that the reforms which had been so often promised to the representative of the United States at Madrid were about to be granted; that the blot of slavery would disappear; that the right of colonial self-government would be given to the island; that the burdensome system of taxation would be abolished, and that, peace being restored, all the desired reforms being granted, and amnesty and pardon being given, the Government of the United States would be relieved from the disagreeable duties which it had performed for about two years.

Mr. Lopez Roberts will find in these considerations an evidence of the generous purposes and desires of the Government of the United States toward his government and toward the island of Cuba, and its logical action in reliance upon the promises and the representations of the Spanish government, and of its esteemed representative to this Government. He will permit the undersigned also to say (in reply to his suggestion that these persons have been stimulated and encouraged by the indulgence hitherto shown them by a benevolent government) that it seems to the undersigned that they have found their encouragement and the stimulus, not in the humane course of this Government, but in the love of liberty and in that sympathy with communities struggling against oppression, and for freedom, which is the portion of all generous natures; and that such stimulus and encouragement will fail them when Spain shall imitate the benign policy of the United States.

Mr. Lopez Roberts also does the undersigned the honor to quote with approval, from a dispatch from the undersigned to Mr. Motley, the following passages:

We hold that the international duty of the Queen's government in this respect is above and independent of the municipal law of England. It was a sovereign duty attaching to Great Britain as a sovereign power. The municipal law was but a means of repressing or punishing individual wrong-doers; the law of nations was the true and proper rule of duty for the government.

But the Government of the United States has never been able to see the force of this alleged difficulty. The common law of England is the common law of the United States. In both countries, and certainly in England, revenue seizures are made, and ships are prevented from going to sea on much less cause of suspicion than attached to the suspected ships of the confederates.

The undersigned receives with great satisfaction this official admission of Spain to the doctrine that in time of war it is as well the right as the duty of the non-combatant powers to maintain a neutral position—a doctrine of which the United States were the earliest, and have remained the most consistent, advocates. In the first stage of their national history, they suffered from the unlawful attempts of other belligerent powers to force them from the neutral attitude which they had the right to maintain. In a later and more trying period, they were injured by the

neglect of other powers to preserve their neutrality when they themselves were in a state of war. It is a satisfaction to feel that the position which they have maintained when they were at peace, and claimed when they were at war, is gaining ground on the continent of Europe.

The intelligence and acumen of Mr. Lopez Roberts cannot have failed to notice that these doctrines were applied to a condition when a state of war was recognized by the neutral; that the whole of the context of the argument from which Mr. Lopez Roberts has done the undersigned the honor to excerpt the passages which are quoted above, relate to a recognized condition of war, and that the grievances complained of by the United States in the dispatch from which the quotations are made were the acts of a government which had formally recognized a state of war between the United States and their armed opponents.

To make the doctrine of the passages which have been quoted applicable to the relations of Spain and Cuba, the former must acknowledge a state of war between herself and the inhabitants of Cuba which other nations may recognize.

The undersigned has not heretofore understood that the government of Spain had yet recognized, or was yet willing that the other powers should recognize a state of war as existing in the island of Cuba, but the application which his excellency the minister of Spain endeavors to make of the position in which the United States acknowledged to have found themselves after that several powers, including Spain, had accorded the rights of belligerents to their revolted citizens, induces the undersigned to inquire whether Spain now regards her position toward the insurgents of Cuba the same as that which the United States occupied toward their insurgent citizens at the time of the occurrence of the acts complained of in the dispatch from which Mr. Lopez Roberts has quoted.

The undersigned avails himself of this occasion to renew to Mr. Lopez Roberts the assurance of his very high consideration.

HAMILTON FISH.

No. 380.

Mr. Lopez Roberts to Mr. Fish.

WASHINGTON, May 5, 1871. (Received May 5.)

The undersigned, minister of Spain, has the honor to acknowledge to the honorable Secretary of State the receipt of his note of the 3d instant, in which he is pleased to state that William T. Otto has been appointed arbitrator, and the Hon. Caleb Cushing counsel on the part of the United States, in accordance with the bases agreed upon in Madrid, on the 12th of February last, between his excellency Don Christino Martos, minister of state of His Majesty the King, and General Sickles, envoy extraordinary and minister plenipotentiary of this Republic in Spain, for the settlement of claims of American citizens in consequence of the insurrection in the island of Cuba.

The undersigned informs Mr. Hamilton Fish, that by virtue of the powers conferred upon him by the 1st article of said bases, he has appointed as arbitrator on the part of Spain Mr. Luis de Potestad, 1st secretary of this legation, and Mr. J. Mandeville Carlisle as counsel.

The undersigned avails himself of this occasion to reiterate to the honorable Secretary of State the assurances of his highest consideration.

MAURICIO LOPEZ ROBERTS.

No. 381.

CONSULAR CORRESPONDENCE.

Mr. H. C. Hall to Mr. Davis.

No. 560.]

UNITED STATES CONSULATE GENERAL,
Havana, October 13, 1871. (Received October 23.)

SIR: The accompanying slips from the New York Herald of 24th ultimo and 2d instant purport to be telegrams transmitted from this place. I have made inquiry, and have ascertained from an authoritative source that the said telegrams have not been sent from here.

In connection with the statements contained in the slips, I beg to transmit a memorandum of a conversation with an intelligent gentleman, a British subject, whom I consider entirely credible, who has lately visited the eastern and central departments, from which it would appear that the insurrection is still strong, and that there is as little probability of its being promptly suppressed as there has been at any time during the past two years.

I have the honor, &c.,

HENRY C. HALL

Inclosures.

No. 1.—Purported telegrams to the New York Herald.

No. 2.—Memorandum of a conversation with a gentleman from the eastern department.

[Inclosure No. 1.]

[From the New York Herald of September 24, 1871.]

Cuba—Herald special report from Havana—Capture and surrender of all the promised leaders of the insurrection—A handful of marauders in hiding—A proclamation to announce the end of the insurrection—Telegram to the New York Herald.

The Herald correspondent at the Cuban capital has forwarded us the following special dispatch:

HAVANA, September 24, 1871.

Letters from Puerto Principe announce that the eastern part of the island, which included the whole seat of the insurrection, has been completely pacified, and that the captain general will shortly return to Havana.

All the principal leaders of the insurrection, with their forces, have either surrendered or been captured, and there exists now only a handful of marauders, who are hiding, and, as it appears, would also surrender, but for the fear of being prosecuted by the local authorities for the atrocities committed upon the lives and property of the inhabitants.

A proclamation by the captain general, declaring the insurrection at an end, is about to be issued.

[From the New York Herald of October 2, 1871.]

PEACE IN CUBA.

Herald special report from Havana—The telegraphic line between Puerto Principe and Havana re-established—The pacification of Cuba complete—Telegram to the New York Herald.

The Herald correspondent at the Cuban capital has forwarded us the following special dispatch:

HAVANA, October 1, 1871.

The telegraphic line between Havana and Puerto Principe, which passes through the district of Camaguey, the stronghold of the late insurrection, has been completely re-established and is now in working order.

The line had been cut by the insurgents at the beginning of the struggle, and kept interrupted ever since, by their possession of the intervening large territory of the Camaguey.

The want of telegraphic communication with Havana hampered the operations of the Spanish war authorities, and the insurrection had to be subdued before the line could be held and repaired.

With the re-establishment of the telegraph between Havana and Puerto Principe, the pacification of the island is complete.

[Inclosure No. 2.]

HAVANA CONSULATE, *October 13, 1871.*

Memorandum.—A gentleman who has recently visited the eastern and central departments of the island reports the following:

That he was at Guantanamo a week ago, when an alarm was raised that the insurgents were approaching the place. The governor ordered the inhabitants into the block-houses, and prepared for defense. The insurgents appeared on the outskirts of the town, but did not attack it, contenting themselves with selecting and driving off all the best cattle in the vicinity.

That the insurgents have full control of all the country around Guantanamo, and within the radius of a league from Santiago de Cuba. These places receive nearly all their provisions and supplies from the western department.

That in a recent attack of the insurgents upon Yara, they completely sacked the place, carrying off in their carts all the goods and provisions of the place, as well as the commissary stores; they afterward burned the place, not leaving a single building. The resistance they met with was very trifling.

That the loyal inhabitants in those departments are exceedingly despondent and dissatisfied; they are convinced that without large re-enforcements from Spain, and more active co-operation on the part of the western department, the task of suppressing the insurrection is a hopeless one.

The slaves of the eastern department are being removed hither in large numbers some to be sold and others to be hired. As they are all more or less tainted with insurrectionary ideas, their influence upon the same class in this department is to be feared.

That near Puerto Principe there was quite a sharp engagement, a few days since, between the government forces and insurgents, in which the former were defeated.

SWEDEN AND NORWAY.

No. 382.

Mr. Andrews to Mr. Fish.

No. 93.]

LEGATION OF THE UNITED STATES,
Stockholm, March 3, 1871. (Received March 23.)

SIR: I have the honor to inclose a translation of the report by Count Lewenhaupt, the Swedish and Norwegian chargé d'affaires in Washington, on emigration, made to his government on the 17th November last; also a printed copy of the same, in the Swedish language.

The report has been communicated to the Diet and to the Storting. It has been extensively published in the newspapers of Norway, but as yet only extracts from it have been published in the Swedish journals.

The spirit of the report appears to me to be excellent. Taken together, I think Americans could not regret its extensive circulation in Sweden and Norway. Count Lewenhaupt states that a majority of emigrants from these kingdoms prosper in the United States. He has, however, as might be expected in treating of so extensive a topic, fallen into a few errors. He states that it happens "very" often that the

wages due from railroad companies to emigrant workmen are not paid. That homestead land is not now to be acquired within ten Swedish miles (sixty English miles) of the railroad, whereas the fact is that there is a plenty of land subject to homestead entry, in several States, within one Swedish mile of the railroad. Also, that a capital of 600 riksdaler (\$160) is essential in order to begin a homestead settlement. That sum, or more, would of course be advantageous; but inasmuch as a settler, especially if a single man, can be absent from his homestead as long as six months at a time in order to earn wages, many a man can get along very well whose capital at the start is only his hands and his health. He also states that the Swedish and Norwegian immigrants are indifferent what ticket they vote; that they would vote the democratic ticket as soon as the republican, if they could thereby better advance one of their countrymen in political position. My observation in the north-west leads me to quite the contrary opinion. These adopted citizens take a real interest in politics, and are ardently attached to the anti-slavery side.

On receiving information from Mr. Consul Gade that the revision of the report, as published in the newspapers of Norway, made it appear that the people of the United States were opposed to immigration (arising, as I suppose, from an incorrect rendering of the Swedish word "Rikena" as *States* instead of *Kingdoms*, where it occurs near the top of the third page of the printed copy,) I yesterday addressed a note to the minister for foreign affairs, requesting him to have the matter placed in its proper light before the Norwegian public. I inclose a copy of my communication, and shall be glad to learn that my action is approved by the Department.

I have the honor to acknowledge the receipt of your dispatches No. 56, inclusive.

I am, &c.,

C. C. ANDREWS.

[Translation.]

Report of the Swedish Norwegian chargé d'affaires in Washington, concerning the emigration from the United Kingdom to the United States of America.

As emigration forms the chief point of contact between the United Kingdom and the United States of America, and a great part of the legation's business proceeds in commissions which are sent in from the home-staying relatives of the emigrants herewith have the honor to present some information respecting emigration in general, and also to account for the circumstance that the commissions committed to the care of the legation cannot be performed with greater dispatch.

The greatest part of the emigrants arrive at New York via England, by English steamboats. A small number of about five thousand arrived, however, during the year, by American steamboats via Copenhagen. A direct transfer of emigrants by steamboats from the United Kingdom to America does not take place, the reason of which is, as far as Sweden is concerned, that the Swedish law does not permit a vessel to carry so great a number of passengers as is allowed in some other countries. The emigrants complain, however, more of the bad fare on board than the narrow space.

On their arrival in New York, the emigrant steamers disembark their passengers at a cape which shoots forward in the harbor, called "Castle Garden." They are there received by the "commissioners of emigration," or the committee appointed by the city of New York to superintend emigration. Very ample means are at the disposal of this committee, since all emigrant vessels arriving at New York must pay a duty of 7 riksdaler 50 ore, (\$2.) for every emigrant. The means thus collected, which annually amount to more than 2,000,000 riksdaler, are applied partly to the support and enlargement of the emigrant home, situated on an island called Ward's Island, at the mouth of New York, and partly to cover the expenses of the committee at Castle Garden.

the harboring and forwarding of the emigrants. All emigrants arriving at New York have a right, in case of need, to free board and lodging at Ward's Island during the first five years; the subsistence afforded them there is of course of about the same quality that is bestowed in the poor-houses, because the emigrant home else would become overcrowded. According to what is stated in the last annual report of the committee, it occurs, nevertheless, that emigrants apply for admittance at Ward's Island during the winter, in order not to be obliged to spend their summer earnings, which they place in some savings bank. During the year 1869, more than two hundred and sixty thousand emigrants arrived at New York, and of these, fourteen thousand lodged for shorter or longer time in the emigrant home. The whole number of the emigrants harbored there, was, on an average, one thousand three hundred and eighty-four. The most part sojourn there only for a short time, until they may recover from some occasional illness, or receive answers to letters from their relatives in the interior of the country, or else in waiting for employment. Some there are, however, who, in consequence of mental disorder, incurable sickness, and inability to provide for themselves, continue to live in the emigrant home during five years, and afterward are admitted for life-time in the common poor-house, though the greatest part of such emigrants are, by the care of the committee, sent back to their native country. The last year no Swedish or Norwegian emigrants were to be found in the common poor-house in New York.

In 1869, twenty-five thousand and fifty-five Swedish and five thousand nine hundred and three Norwegian emigrants arrived at New York. The cause of the comparatively low number of Norwegians was probably due to the circumstance that the Norwegian emigration had mainly taken place via Quebec. Of these Swedish and Norwegian emigrants, six hundred and sixty-three Swedes and fifty-eight Norwegians were taken up in the emigrant home, of whom three hundred and ninety-nine Swedes and twenty-two Norwegians were admitted in the hospital. Thus it is found that the number of Swedes and Norwegians received at the emigrant home, compared with the whole number of arrived emigrants, was as follows: Swedes above 2 per cent., and Norwegians not fully 1 per cent. The ground for this is probably to be found in the circumstance that the number of Norwegian emigrants already settled in America is considerably greater than that of Swedes, whereas the Norwegian element of emigration has of late years perceptibly decreased, and those Norwegians who are now arriving in America consequently find a greater number of relatives and friends there.

On their arrival at Castle Garden, the emigrants are received by a Danish commissioner, engaged in the service of the committee, who with great readiness affords all necessary information. In the Castle Garden the emigrants can exchange their money, and receive there a memorandum, stating as well the amount which was brought in, as the amount they got in exchange. There they are also supplied with railroad-tickets to all places in the United States, and conveyance for themselves and their luggage to the railroad station, without coming in contact with a mass of loose people that lounge about the Castle Garden at the arrival of every emigrant vessel. If the emigrants have arrived without any settled aim, they may apply to the work-office in Castle Garden, and, while they are waiting for employment, either betake themselves to Ward's Island, or to those other hotels which are recommended by the committee, and whose owners are allowed entrance in Castle Garden, on condition of placing their hotels in some measure under the superintendence of the committee. It is sometimes very difficult, however, to get employment; and those emigrants are consequently in a far better plight who have some settled purpose in view, and know any person upon whose assistance they may depend during the first period.

To engage a special agent in New York, in order to assist Swedish and Norwegian emigrants is needless, and would be, moreover, out of the question, since the committee would not allow such one admittance in Castle Garden, and the agent accordingly would not even have opportunity to see the greater number of the emigrants. The motive for refusing entrance in Castle Garden to the agent, is partly owing to the opinion prevalent throughout America that emigration is detrimental to the United Kingdoms, and that the government, therefore, seeks to counteract it, and partly the impossibility to avoid collision between such an agent and that employed by the committee, unless the superintendence over the whole Swedish and Norwegian emigration were delivered over to the Swedish-Norwegian agent—an arrangement with which the committee of course, is little disposed to comply. A Swedish-Norwegian agent would, therefore, only be able to assist such emigrants as wished to remain in New York, and accordingly venture to betake themselves out of the pale of Castle Garden. The serviceableness of such an agent is, besides, far from being obvious. If an emigrant does not succeed in getting employment at the work-office in Castle Garden, there is no reason for supposing that the aid of the agent in this respect would be of avail, and if an emigrant needed money, he could, of course, expect no assistance of the agent, because in such a case the demand would be so immense, that no means would suffice. A credulous emigrant would nevertheless be liable of being cheated by the runners, because the agent could not always and incessantly follow him.

From the Castle Garden almost all Swedish and Norwegian emigrants set out for

the West, where they have friends and relatives, and arrive generally at Chicago without accidents, though the newspapers are now and then stating how some credulous emigrant has been deprived of money and luggage.

In Chicago there is, however, no establishment corresponding to the Castle Garden, and the emigrants are there greatly exposed to being defrauded by unprincipled Swedes and Norwegians who have not succeeded in procuring themselves any other more advantageous occupation than that of cheating their countrymen. The emigrants who remain in Chicago are allured by runners to hotels, where they are obliged to pay two or three times the prices agreed upon, and as their means are ordinarily very scanty, they are very often brought under the necessity to give their trunks in pawn. There is, to be sure, an emigrant-house in Chicago, which is supported by voluntary contributions of the Swedish population, but as the greatest part of the Swedes in Chicago live in straightened circumstances, the means of the emigrant-house are insufficient for the great emigration; and the hardships which the emigrants meet with in the emigrant home in Chicago are undoubtedly greater than those they left behind in their native country. Such emigrants as have tickets for direct conveyance to the West, and accordingly only pass through Chicago, are nevertheless very often plundered there. A great number, perhaps the half part of the emigrants, have bought the tickets on credit, or else received them from their already emigrated relatives, who, instead of sending the traveling expenses, prefer to send tickets, partly because the money intended for the voyage has sometimes been employed for other purposes, partly because the emigrant companies give respite with the pay for the tickets when the buyer is well known. The whole cash of the emigrant at his arrival in Chicago consists, therefore, very often of two or three dollars, and of this pittance he is deprived in Chicago. According to perfectly agreeing statements made by emigrants who passed through Chicago last summer on different days, this takes place in the following manner: At his arrival in Chicago the trains are changed, and the fresh train starts from another station than that where the arrival took place. A Swedish and Norwegian runner now presents himself, and informs the emigrants that their tickets certainly entitles them to depart with the fresh train, but that the transport of the trunks from one station to another is not performed by the emigrant company which has sold the tickets, but by a separate company, viz, the express company; and in proportion to the size and weight of the trunks, one, two, or three dollars are demanded of them. The emigrant protests, but his fear of not getting his trunk along with the train causes him finally to pay. It occurred last summer that a party of emigrants, consisting of a wedded couple, two wives, whose husbands were settled in Minnesota, and five children, were in this manner stripped of all their money. The consequence was that the whole party must go without subsistence during their journey from Chicago to St. Paul, in Minnesota, which took about four and twenty hours. At their arrival in St. Paul, the ticket was no more valid, but it was found that the place in question was five Swedish miles (thirty English) distant from St. Paul. Now it was certainly possible to make the trip in two hours at \$2 a person, but as the party was quite destitute of money, one of the husbands was obliged to set out on foot to search out the relatives, and afterward, during the following day, return with money to St. Paul. The women and children must meanwhile remain in St. Paul, with the prospect of going without food for twenty-four hours longer, whereas, if they had not been cheated in Chicago, the whole party would have been able to arrive at the place of destination without any trouble.

There is no doubt that this sort of cheating is carried on at a large scale, and as emigration is so extensive, it is of course very lucrative, but there is no possibility to prevent it in Chicago. The only means to check it would be to request the concerned emigrant agent in Sweden and Norway to note down separately on the ticket or contract that the company takes upon itself the transport of the luggage in Chicago. The emigrant company which forwarded the above-mentioned emigrant party did, upon inquiry, declare that it takes care of this transport without any pay, but it seems probable that this duty is not always performed. According to statements made by other emigrants, it appears that emigrants arriving via Quebec are, at the border, liable to the same kind of imposition, although the notices received in this respect have not been so complete as to afford matter for a closer inquiry. Custom-house officers, or runners who pretend to be such, ask the emigrant for a duty of one, two, or three dollars in proportion to the weight and size of the trunks, independently of their contents, which commonly consist of clothes, implements, &c. Such effects and generally personal appurtenances are, however, according to the now valid law, of which an abstract is subjoined, exempted from duty, and the emigrant needed, consequently, only to refuse when a similar extortion was attempted.

The question whether the prospects of the emigrant, after he has arrived at a settlement in the West, are so promising that the emigration generally may be thought advisable, is, of course, a matter well known to the settler. All settlers do unhesitatingly answer it, and this answer without exception is the same, viz: the question whether a person ought to emigrate or not, depends exclusively on his personal cir-

circumstances and his capacity to shift for himself; some ought to emigrate, others do best to remain at home. This answer is, indeed, also the only one that can be given. A question of quite another kind is, whether the greatest number of emigrants settled in the West succeed in attaining a better condition than that which they left, or might have expected to have met in their native country. To a person who has frequented the settlements there can be no doubt in this respect. The greatest number succeed very often to work themselves up to a position considerably better than if they had remained at home, and most of the emigrants declare themselves contented with their lot. This fact is undoubtedly due to the circumstance that these emigrants are a young, vigorous, and orderly people. It is an exception to find an emigrant who has carried money with him, and it is a prevalent opinion among the settlers that a person who possesses a farm, and is in easy circumstances, ought not to emigrate in hope of becoming rich here. To make one's fortune in the West is required a thrifty energy to work the soil, and to buy betimes a piece of land where the railroad has not reached, and the land, therefore, is cheap. The land being once bought, its value increases with incredible rapidity in proportion as the railroad advances and the population becomes larger. Whereas, if the emigrant does not possess health and strength, and his expenses for the support of his family will not allow him to make savings for purchase of land, he cannot generally expect to arrive at a condition exempted from cares, and still less can he hope to attain easy circumstances.

The most thriving settlements are situated in Illinois, and were established twenty-five years ago. From the nearest railroad station the distance is commonly not above one or two Swedish miles. At the station there is a little town, and the traveler gets easily a carriage, but ordinarily without a driver. The road is, however, easy to find; there are no by-paths, but only one road, which leads directly to the settlement, that is situated at a skirt of a wood. The settlement consists of a great many fine farms, surrounded by fertile fields of maize and wheat. Ordinarily there is a Lutheran church, and there are instances of church buildings which have cost as much as 180,000 Swedish riksdalers. The houses are made of joist-work, with whitewashed board linings, and have commonly four windows in the lower story, but only two in the upper one, which last thus only stretches over the half of the house. The buildings remind us of the small villas in the environs of Stockholm. Besides the dwelling-house, one sees commonly the little log-house where the emigrant lodged during the first years. The total absence of out-houses strikes immediately the eyes. Stables and cow-houses are unnecessary in consequence of the mild winter; cattle and horses are therefore kept under sheds, covered with straw, but open at the sides. Barns are not required, because the crop is thrashed with a machine on the grain fields. It is not unusual that a rich farmer, who at his arrival some years ago begun with pawning his trunk, is now the owner of a neat, well-arranged farm of about 360 acres, the greatest part of which is open ground, seven cattle, nine horses, besides valuable farming implements and machines. As the price of the ground in Illinois is now 150 riksdalers per acre, and as an ox or horse costs 300 to 450, a colt 180 to 225, a cow 150 riksdalers, such a farm may at the present time be estimated from 60,000 to 70,000 riksdalers. Particulars respecting the manner in which a poor emigrant may succeed in becoming a rich farmer all agree. A lately arrived emigrant may get employment at a farm with a monthly pay of 60 riksdalers, for eight to ten months, with board and lodging, and though he may shift for himself during the winter months, yet he is able generally to save 300 to 400 riksdalers a year. A man's day-work during the harvest time is often paid with 4 riksdalers, 50 ore. Railroad-workers receive 5 riksdalers, 25 ore a day. This is, however, hard work, and it happens, moreover, very often that the wages are not paid by the railroad company.

After the emigrant has succeeded in saving about 1,200 riksdalers he buys two horses, wagon and plow, and may then earn monthly 150 riksdalers, but must then provide for himself.

Twenty years ago land could be obtained in Illinois for $7\frac{1}{2}$ riksdalers, and about ten years ago for 15 riksdalers; and as a single acre sown with wheat might yield an income of between 42 to 84 riksdalers, it was of course easy to buy land. The land being once purchased, it rose in value every year, in proportion as the railroad progressed, and the supply of laboring people became greater. An emigrant without means can at present not hope to buy land in Illinois, but is obliged, in order to enjoy the same favorable circumstances, to betake himself to the western tracts of Minnesota and Kansas. One ought not, however, to imagine that all inhabitants in a settlement are well off. Close by the rich farmer one meets a poor emigrant who possesses only 5 acres, and continues to dwell in the little log-house, although both arrived at the same time at the same place. In the rich farmer's log-house is harbored a latterly arrived emigrant family, consisting of a wife and four children, all in rags. The household furniture is made up of a bed, a chair, a cradle, and the great chest. Being asked, the wife relates that the family has been settled there a year; that the husband has been sick, but that he has now again got employment as a carpenter, in the nearest town, with a daily pay of 4 riksdalers, 50 ore, of which he, however, for his daily subsist-

tance expends 1 riksdaler, 50 ore; that she and her husband possessed a farm, but that it was bought on credit, and that the income did not suffice to pay taxes and duties; that the "pastor," and master, and mistress, had dissuaded them from emigrating, but their relations had encouraged them; that they possessed not a single ore ($\frac{1}{2}$ cent) when they arrived at the settlement; that they had not been obliged to starve outright, in consequence of the charity of some wealthy farmers, but that she, whose parents were independent peasants, had never found herself in so straitened circumstances as during the last year; that a daughter of fifteen years of age, and a son of twelve years of age, were already gone out as servants; that as soon as the husband had succeeded to save some money, the whole family would go to Kansas, but did not intend to return to Sweden; first, because it is not worth the while to think of what is impossible, and then, when we see how well off is Pär Olsson, we also may hope that things may turn out just as well for us! At some distance thence there lives a tailor, who is possessed of a little house and a few acres of land, an old horse, and two cows. Since his arrival at the settlement, twenty years ago, he has incessantly worked on very hard; but not being a farmer, he has not met with the good fortune of his neighbors, and though he annually saves 300 riksdalers, yet he says that the future looks dark, because his strength is lessened and the family numerous.

In Minnesota one meets with Swedes and Norwegians on all railroad trains. Some go to Kansas to look for land, while others, on the contrary, are going from Kansas to Minnesota for the same purpose. The greatest part of them are young laborers returning toward the east and the more wealthy States, where wages are somewhat higher, in order to earn needful money for purchase of land. They have ordinarily been two or three years in America, and in consequence of the great many different persons with whom they have been in contact, these years have had a considerable influence on their experience of the world and their mental energy.

Along the railroad, which extends toward the west from St. Paul, one meets a great number of lately arrived emigrants, because, as the railroad ends and the older settlements cease, the emigrants must at the beginning remain here to become somewhat acquainted with the new circumstances before they finally go to settle on tracts that are comparatively little populated. As the soil is not so yielding, the climate harder, the settlements younger, and the railroad but recently finished, the well-being is less there than in Illinois. The houses are not so neatly built, and many settlers still live in the log-houses. Some settlers, who have fixed in miserable woodland tracts, live in very narrow circumstances, and even in extreme indigence, though they bought their land sixteen years ago. Here one sees, however, also extensive prairies, and the wealthy farmer driving his reaping-machine harnessed with four horses. At one railroad station, which was opened a few years ago, there is already a little town that, with its small wooden houses, presents a very fine view on the even prairie. Near by the station there stands a large grain store-house. This, as well as some very large shops, belongs to American merchants dwelling in the larger towns, but almost all the other houses are possessed by Swedes. The hotel, where board may be obtained for 15 riksdalers 75 ore a week, belongs to an American, who deals besides with agricultural implements, but its management is intrusted to a Swede, formerly a corporal, who has already learned the English sufficiently to be understood, though at his arrival at the station a year ago the whole of his English vocabulary consisted of the single word "work." His monthly pay is 105 riksdalers and board. Beside the hotel, there is a little house with only one room. This house belongs to a Swedish tailor, who arrived a year ago with wife and children; he had borrowed the expenses needed for the passage from another emigrant, but has not been able to earn enough for paying back his debt. At the passage over the lake of Michigan, while the emigrants sat closely crammed up on the narrow deck, an intoxicated emigrant thrust another on the knee of the tailor's wife, who was pregnant. The consequence was a premature child-birth on board the vessel. At his arrival in Milwaukee, he was obliged, therefore, to remain at a hotel, and as his means shrunk away in paying the doctor's fee and the bill of the hotel, he must pawn the trunk in order to come further. In the course of the year he had, however, succeeded to build the little house, which, along with the furniture, had cost 600 riksdalers, but the land he had not been able to buy. As this land, which was saleable last year for only 150 riksdalers, had meanwhile increased to a value of 600 riksdalers, he was now in the untoward plight to remove the house. He and his wife repented bitterly that they emigrated, and have firmly resolved to return to Sweden as soon as possible. As he, for some time, had not met with any work in his trade, he had applied to a farmer for work, but his chest was too feeble to endure the hard labor in the fields. His nearest neighbor was another Swedish tailor, who had also arrived there a year ago, with his family. This latter had, however, given up his trade, and as he was possessed of a little stock of money, he had opened a tavern and bought some cows, the supporting of which cost nothing at all, because they found abundant pasture on the prairie before the house. In the middle of the square stands an emigrant house, which belongs to the town; the emigrants may there get shelter over their heads for some short time. It was now occupied by

a Swedish emigrant family, which was placed in a most distressing plight. The husband, who had been a skillful joiner, had not succeeded in getting employment in his trade, but had been obliged to seek work of a carpenter. In the course of the year he had, however, been so successful as to earn about 300 riksdalers, or the needful money for the passage of his family, upon which he had immediately bought tickets for the wife and the children, because it seemed so tedious! On the arrival of his family, he was accordingly without means, and as he was at the same time disabled to work in consequence of a deep sore in his foot, caused by treading on a large nail, he was obliged to take recourse to the emigrant home with his family. The wife, a young woman of engaging appearance, still wearing the national dress peculiar to her birth-place, told that she could weave and sew, but no work was to be found, adding, "that it should be, indeed, so impossible to get work in America, I had never thought." As she had two small children, and the husband was sick, and besides not strong, work on a farm was quite out of question.

As there is still good stock of land belonging to the State, and according to existing law every emigrant can obtain 160 acres for the moderate price of 42 riksdalers, it appears very strange that all do not take advantage of this opportunity to become land-owners. The truth, however, is that the emigrant in this case must settle down on the land, which cannot be done without necessary means for purchase of implements, cattle, and something to subsist on during the first year. The capital which a settler thus needs can be calculated to at least 600 riksdalers. These tracts are certainly only ten Swedish miles distant from the railroad, but the roads are bad, and the only vehicle is a wagon drawn by oxen. The nearest neighbors of the settlers are the Indians. These live, however, on a friendly footing with the settlers, and it happens very often that an Indian presents himself with venison-steak, in order to have it exchanged for a cup of coffee. During the first year the settlers live a very hard life, and if the tract is woodless he must lodge in a hut dug in the ground. Many prefer, therefore, to buy railroad land, which may be had at 15 riksdalers per acre, at a distance of one Swedish mile from the railroad, and in the neighborhood of some settlement which already possesses a church and congregation.

Swedish and Norwegian maid-servants are very much sought for, and obtain ordinarily service without trouble in the towns, with a monthly pay of 24 to 36 riksdalers. It is, however, indispensably necessary for them to know some person, who may afford them needful shelter the first days, until they may obtain some service.

It is impossible to make a journey in the west and return without being fully persuaded that the chief and almost exclusive motive for emigration is the hope of arriving at better and more easy circumstances, and there is little doubt that the greatest number succeed in realizing this hope. As regards the assertion, often put forth in the newspapers, that emigration is occasioned by the emigrant's love of liberty, which does not allow him to endure the political oppression, or as it is preferably termed in the American journals, "the slavery of his native country," we think this to be entirely unfounded, as far as the political system of the country is concerned. The Swedish and Norwegian settler in the West procures generally the rights and privileges of an American citizen, and as the republican party is preponderating, his votes are generally given, in accordance with the prevailing opinion in the district where he lives, to some republican candidate, of whose political views he has only a very imperfect idea. He takes little part in the political conflicts, and commits willingly the arrangements of the concerns of the community to the native American, because the settler still is apt to consider the Lutheran congregation as the community. If the number of the settlers becomes so great that they may reasonably claim to have a countryman chosen to some public office, only in such a case they evince some particular interest in exercising their rights of election, but even then their political way of thinking is so little determined that they will vote with the democratic party if the object in view would thereby be more surely attained. The settler is aware of no direct advantage in his right of casting a voting-ticket for a person that he has never seen, and who generally is an American; but he perceives and appreciates, on the other hand, another circumstance quite novel to him, which materially conduces to his every day well-being, and this is the general and thorough social equality prevailing there; here we are all peasants; there are no lords and gentlemen among us; and no one need pull off one's cap! This sense of equality, which gives rise to the American custom of addressing all persons with "sir," has, on the contrary, as regards the Swedish and Norwegian settlers, produced a quite opposite effect. All titles are cast off, and all address each other, at their first meeting, with "du," (you.)

The settler who directly is transplanted from his native country to the west, fancies, of course, that this social likeness is dependent on the republican form of government, but it is, in truth, only a necessary consequence of the fact that all persons in the west possess the same education, the same habits of life, and the same chances of having the necessities of life supplied, on condition—which commonly is the case—that they are possessed of a pair of sinewy arms. In Chicago the social equality is already less, and in the other States there is, in a social regard, a great dissimilarity, although the causes

in operation are not the same as in Europe. One thing, however, which they unanimously admit of being better managed in their native country is justice! To judge of letters which, from time to time, are arriving from emigrants who have emigrated to States where there are no Swedish settlements, these emigrants appear to be in a very sad plight, owing to their want of knowledge in the language and other peculiar circumstances, especially when the American employer refuses to fulfill the terms of a contract. If, as sometimes takes place, the emigrant mentions his need and complains of his grievances to the nearest consul, this last can do nothing more than to direct the emigrant to the proper American authority, unless it may happen that both parties are living at the place, in which case the vice-consul may attempt what can be effected by friendly mediation. The business of the vice-consuls who are appointed in the west consists mainly in assisting the legation with concerns in the way of inheritances which are committed to its care. Besides a small income for attestations and certificates, a vice-consul can expect no other compensation than the allowance which is granted to him in cases when inheritances are actually obtained; and, as the assistance of the legation is mainly solicited with respect to the difficulties which often are connected with the obtaining of an inheritance, the direct income of a vice-consul is far from being proportionate to the pains taken. That there are persons, however, who are found willing to accept such offices, may be explained from the fact that the vice-consul at the same time ordinarily is a commissioner and emigrant agent, and that he, moreover, in consideration of his employment in the service of the government, generally enjoys the confidence of the emigrants, and, consequently, may find opportunities to extend his private sphere of business. The circulation of money which is brought about between Sweden and Norway by emigration, amounts annually to a sum many times greater than the whole value of the export and import of goods put together, and the means which, in the way of assistance, are sent from emigrants to their relatives in Sweden and Norway come up to very considerable sums. The creditable firm of Messrs. F. Winslow & Co., Danish bankers at Chicago, No. 2 South Clark street, is very much solicited by emigrants; and it is known that they have sometimes forwarded monthly transmissions of 120,000 riksdalers to Sweden alone for several succeeding months. It is probable that the greatest part of these means was designed to be used in Sweden and not for traveling expenses, because the emigrants, as has been previously stated, prefer to buy the tickets in America.

When the legation is requested to procure an inheritance, the respective heirs usually suppose that the minister, in consequence of his official position, will afford better aid than a private agent. This is, however, most frequently not the case; and the only advantage is, that the heirs are insured against the risk of being obliged to open a lawsuit against their own agent. Here there are no administrative authorities to whom recourse can be taken, in order to obtain information respecting the possessors of the inheritance, who are living in the far-off west; the minister can, therefore, do nothing more than to write to the vice-consul, and this last must commit the cause to some known person residing in the same locality where the deceased had been settled. If no vice-consul is to be found in the neighborhood, the minister must write directly to some advocate, and then it often happens that the letter of the minister rests unanswered. It occurs frequently that the heirs cannot state anything more respecting the inheritance than that they have received letters from a certain emigrant, whose name is stated, and who has offered himself to procure the inheritance, but that they do not venture to give him authority. The only thing which then can be done by the vice-consul is to write to or inquire for this emigrant, and as his motives in writing to the heirs were owing to his hope to earn something by procuring the inheritance, he of course shows himself dissatisfied with the mistrust of the heirs, and is little inclined to afford necessary information. When, finally, the inheritance is discovered, it is found to be in the hands of some person who has already become accustomed to consider it as his property. A request must then be made at the proper authority about the appointment of a "public administrator," or procurator, and the settling of the inventory of the succession takes, ordinarily, two years. Ultimately, it happens very often that the administrator, in his turn, raises difficulties, and as it always is possible that the court of justice, in case of a lawsuit, may declare that the administrator has proved that the expenses for the adjustment of the inheritance, which commonly are very heavy, and other outstanding debts, have drained off the whole of the resources, the minister ventures not to incur the risk of paying, himself, the lawsuit expenses, and as the heirs themselves neither are willing nor able to guarantee the expenses, sometimes all hope of obtaining the inheritance must be given up.

The language spoken in the settlements is, strangely enough, very little mixed up with English words, and even the younger generation, which is born in America, speak their mother tongue without the least trace of English accent. Children and young people generally acquire very rapidly the English, but persons of a more advanced age seldom attain any readiness in the language, and there are instances of persons who now speak the English worse than some years ago, when emigration was less extensive. One meets often with persons in the settlements who have been two or three

years in America without knowing more English than the word "yes," which always is used instead of "ja," which word is entirely banished from the Scandinavian languages. At one of the Swedish churches in Chicago is found a school where the whole instruction is given in the Swedish language, but in the so-termed Sunday-school, which is frequented by the generation growing up in America, and therefore has stood in a closer contact with the Americans, the Swedish pastor must convey the instruction in English.

The Swedish and Norwegian emigrants settle, each nation for itself, but they appear, at least in the country, to live in perfect harmony. The inhabitants in a settlement are accordingly all of the same nationality, and even from the same provinces. That branching out of emigration which goes on in the West is a natural consequence of existing conditions there. Emigration cannot fix on one place, but must proceed with every year toward the west, and the reason why the lately arrived emigrants do not remain in the older settlements, is the same which impelled them to emigrate from their native country, viz, the hope of a more easy living.

The Scandinavian population in the west, of which of course a great part is born in America, is calculated to amount to about 500,000, whereof 300,000 are Norwegians, 175,000 Swedes, and 25,000 Danes.

It is believed that the different nationalities will remain unaltered so long as emigration continues on the same large scale, and by this means the languages and the relations with the native countries are kept up; but it is likely that the Scandinavian nationalities thereafter will gradually wear out, and that they will not get so firm a footing in America as the German nationality. The main ground of this lies in the fact that the Germans are considerably more numerous. They are computed at four to five millions, and as they began to emigrate at a time when there were no railroads, the first emigrants remained, generation after generation, at the same place, in consequence whereof whole districts are peopled with Germans. This population is also in several cities, and especially in New York, which city, in regard to the number of German inhabitants, is one-third in order next after Vienna and Berlin—so numerous that it can live perfectly independent for itself. European emigration, it is supposed, will continue for many years to the same extent as hitherto, but prospects are becoming less and less alluring for every year, in consequence of want of wood toward the west, the greater distance, and increased traveling expenses.

Of late years an incessantly increasing number of Swedish and Norwegian emigrants have departed to the Southern States. Respecting the prospects of the emigrants there, I have not obtained any near information; but even in case that full information might be had in this respect, and it were perfectly ascertained that those emigrants who have emigrated there have more chance of success, yet I am firmly convinced that the publishing of this information would not have the least influence on their choice of place for settlement, because they always emigrate in pursuance of letters from previously emigrated relatives, or oral statements of emigrant agents, on the words of whom they place implicit faith.

The Government of the United States has this year published statistical tables concerning wages and living expenses in the different States, and as both the English and American journals are agreed that these tables will be of great use to the emigrants in their choice of places of settlement, I herewith have the honor to subjoin a copy, along with an abstract made by me respecting the States of Illinois, Minnesota, Kansas, and Texas. I am persuaded, however, that it is impossible to draw just conclusions respecting the preferableness of one State to another, because the tables do not contain any information about a matter of the greatest importance to the Swedish and Norwegian emigrants, viz, the means of obtaining land, and the chances for the increase in value of the land.

The State of Maine brought in last summer some Swedish emigrant families, and though the land, which was situated in the northern part of Maine, and belonged to the State, was sold at the low rate of 1 riksdalers 50 ore per acre, or 240 riksdalers for 160 acres, with a term of three years allowed for payment, each family obtained moreover, as a gift, 100 acres, together with necessary dwelling-houses, with the view and in the hope that emigration, in consequence of letters from these emigrants to their relatives in Sweden, should take the direction to Maine. This hope appears already to be partly realized, as the number of emigrants is stated to be one hundred. It looks likely, however, that the increase in value of the land in these distant tracts will not take place with the same rapidity as in the West, along the great transit railroads. The West is possessed, moreover, of the peculiar and great advantage that the emigrant at the beginning can remain in an older settlement, and meanwhile get somewhat acquainted and familiarized with the new circumstances before he comes to a determination with regard to the purchase of land.

WASHINGTON, November 17, 1870.

C. LEWENHAUPT.

LEGATION OF THE UNITED STATES,
Stockholm, March 2, 1871.

SIR: About a week ago I had the honor to mention to the acting chief secretary of the Foreign Office that I had been informed that Count Lewenhaupt's report on emigration, of November last, as published in the newspapers of Norway, stated that "it is the general opinion in America that emigration is prejudicial to the United States, and that, consequently, the Government wishes to oppose it," &c.; but on receiving from the acting chief secretary a printed copy of the report in Swedish, and finding it contained no such remark, I was led to believe the error had been made by some one of the newspapers in Norway, and that it would soon be corrected there.

Since then, however, I have received reliable information that the version of the report, as above quoted, has not only been published in the newspapers throughout Norway, but that it is the same as officially communicated to the Storting.

I certainly need not assure your excellency that both the people and the Government of the United States estimate very highly the emigration from Sweden and Norway. The statement above referred to, published as it has been throughout Norway, has done them, I fear, no little injustice in Norwegian opinion; and assuming that it is an incorrect version of what Count Lewenhaupt has actually reported, I hasten to request that you will have the kindness, as far as is in your power, to place the matter before the Norwegian public in its proper light.

I have, &c.,

C. C. ANDREWS.

His Excellency Count WACLTMEISTER,
Minister of State and Foreign Affairs.

No. 382.

Mr. Fish to Mr. Andrews.



No. 63.]

DEPARTMENT OF STATE,
Washington, March 13, 1871.

SIR: The Department is surprised to learn from a dispatch of the 4th ultimo from Mr. Gerhard Gade, consul of the United States at Christiania, in Norway, that Count Lewenhaupt, late chargé d'affaires of Sweden and Norway here, had, in an official report to his government of the 24th of November last, stated that public opinion in this country was unfavorable to immigration, and therefore that the Government desired to discourage it. Mr. Gade represents that the report referred to has been extensively published in the Swedish and Norwegian newspapers.

In view of the acknowledged intelligence of Count Lewenhaupt and his supposed good-will toward the United States, it is unaccountable why he should have embodied so unfounded a statement in an official report. So far from being true that public sentiment in this country is adverse to immigration from abroad, and that the Government is disposed to discourage it, the reverse is, and always has been, the fact. From the foundation of this Government, it has been obvious to every reflecting person that the great want of the country was labor. The policy of the Government, therefore, has from the beginning been so shaped as to offer tempting inducements to immigrants from foreign countries; such as good lands at nominal prices, and municipal privileges on a footing with the natives of the soil, in many quarters immediately on landing, and in others upon a short probation as to residence. It may have been that in process of time new-comers from some countries may have been preferred to those from others, but it is at least questionable if any have been more heartily welcome than those from Sweden and Norway. It is not necessary to explain the reason for this.

As the misapprehensions of Count Lewenhaupt, from their official character and extensive publication, may, if uncontradicted, tend to discourage such of his countrymen from seeking a home here as otherwise might have been so disposed, it is desirable that they should be corrected, and, if practicable, as publicly as they have been proclaimed. You will, in any event, make an informal representation on the subject to the Swedish minister of foreign affairs, and will endeavor in every proper way to cause erroneous impressions to be removed.

I am, &c.,

HAMILTON FISH.

No. 383.

Mr. Andrews to Mr. Fish.

No. 99.]

LEGATION OF THE UNITED STATES,
Stockholm, March 18, 1871. (Received April 6.)

SIR: Referring to my No. 93, of the 3d instant, in which I had the honor to call your attention to the publication in the Norwegian newspapers of an error, caused by translating in the Foreign Office in Count Lewenhaupt's report on emigration, whereby it was made to read that the people of the United States were opposed to emigration, and to my No. 94 of the 4th instant, inclosing a translation of the minister for foreign affairs' note to me, promising to take the necessary measures to have the error repaired, I now beg to say that I last evening received a communication from Mr. Consul Gade, at Christiania, advising me how this correction has been made. He states that the Christiania newspapers of the 10th instant contain the following paragraph:

We have been requested to state that an error in writing, which alters the meaning, has slipped into the report from the legation in Washington, relating to the emigration from the United Kingdoms to America, which we have lately mentioned in this newspaper. On page 3, 10th line from above, is written "the United States" instead of "the United Kingdoms."

It will be seen that this correction is merely according to the letter, and fails entirely to remove the erroneous impression produced by the mistake. Though it will doubtless appear to you, as it does to me, unsatisfactory, I regret that I cannot suggest any further probable remedy to be had from the Foreign Office.

As affording some means for removing the unfavorable impression the error must have made in Norway, I think I may venture to recommend that you give an abstract of the correspondence on the matter to the press in the United States, so that adopted Norwegian citizens there can properly explain it in their correspondence with their countrymen at home.

I am, &c.,

C. C. ANDREWS.

No. 384.

Mr. Andrews to Mr. Fish.

No. 100.]

LEGATION OF THE UNITED STATES,
Stockholm, March 20, 1871. (Received April 12.)

SIR: I beg to submit some observations on the subject of emigration, and to refer also to remarks thereon in my Nos. 45 and 51. The condi-

tion in which the war has left many people in France and Germany, and especially those in the districts of Alsace and Lorraine, and the fact that certain powers, among them Sweden, are increasing the military burdens of the people, favor the conclusion that the present year may be a favorable one for the United States to make some extra exertions to induce immigration. If the United States should receive emigrants from the following countries, for instance, in about the same proportion to their respective populations as they receive from Sweden, they would receive annually from Finland 15,000 in place of none now; Esthonia, Livonia, and Coneland, (Baltic provinces of Russia,) 15,000 in place of none now; Belgium, 25,000 in place of 1,000; Holland, 25,000 in place of 1,300 now; Austria, 160,000 in place of 4,000 now; France, 180,000 in place of 5,000 now. I have the impression that emigration from these countries would not fall much short of these figures, if the people therein were as well informed about the United States as are the people of Sweden. Mr. James Howard, member of parliament, in his "Continental Farming and Peasantry," in which he described what he personally saw in 1869, says of the farm laborers of Belgium, "what surprised me much was that notwithstanding their wretched condition, they had no idea of emigration; indeed many did not know what was meant by the term." (See page 29.) Though the peasantry in the other countries I have named may not be in the condition that is here indicated, I feel sure there is an almost universal ignorance among them of the opportunities of acquiring land and citizenship in the United States. Even in Sweden, from whence there has been so large emigration of late years, the people are not yet generally informed of the benefits of the homestead law. A few years ago I believe the French government refused to allow documents to be circulated in France designed to encourage emigration to the United States. But perhaps there would be no difficulty in that respect now. The Swedish language is extensively spoken in Finland and the German language in the Baltic provinces; and it would seem easy to diffuse the requisite information in those quarters, in case it would be permitted by the Russian government. I, for one, should be glad to see the experiment tried. If proper efforts were made, I believe the annual emigration from Europe to the United States could be doubled. With compulsory education and the ballot-box, which has aptly been called the "real American college," our institutions will be liable to no detriment from the greatest immigration that can possibly happen, while the material interests of our country will be promoted. In his circular No. 19, of August 8, 1862, addressed to diplomatic and consular officers, the Secretary of State (Mr. Seward) stated:

It may, therefore, be confidently asserted that, even now, nowhere else can the industrious laboring man and artisan expect so liberal a recompense for his services as in the United States. You are authorized and directed to make these truths known in any quarter and in any way which may lead to the migration of such persons to this country.

Again, in his circular No. 32, of February 8, 1863, on the homestead law, addressed to the same officers, he says:

It is believed that in no country in the civilized world are such opportunities afforded as in the United States, to active, industrious, and intelligent men, for the acquisition of abundant means of support, and comfortable homesteads for themselves and their families. These facts you are instructed to make known in such manner as may be considered most expedient and proper, within the district of your residence.

If the Department is of the opinion that anything can be done by the legation in diffusing information of the character contained in these circulars, I will be very glad to receive instructions as to the way it deems advisable to proceed. I have supposed, however, that, in consequence

of the sensitiveness of all classes in these kingdoms on the subject, any direct efforts on the part of a diplomatic representative of the United States to encourage emigration would be viewed with displeasure by this government. The most effective and economical plan, it appears to me, would be to operate through the native emigration agents, who canvass for and contract with emigrants for their passage. There are eight of these in Sweden, and all located at Gothenburg. They severally give bond to the government for their faithful dealings in the sum of about 60,000 riksdalers, (\$16,000.) Let such an agent publish in newspapers of the largest circulation a notice like this, for example:

FREE HOMES.—The United States of North America donate homesteads of 160 acres of fertile land, convenient to railroads, to heads of families, male or female, or to single persons upward of twenty-one years of age, on payment of \$14, and on condition of cultivating a portion of the land, according to their means, for five years. The foreigner, in acquiring a homestead, becomes the equal of the native-born citizen, legally and politically. The inducements are great, not only for the poor, but for persons with capital. The expense of passage from ——— to these lands is \$—. A pamphlet and map containing particulars as to homestead benefits will be sent post-free by the subscriber to any one applying therefor.

The agent being supplied with the proper pamphlet and map, could thus circulate the information among those who really desired it. The short notice, such as I have given above, better, perhaps, if even briefer, kept as a standing advertisement in the newspapers, and occasionally appearing in the editorial columns, would awaken the necessary attention. It would not be essential to employ a regular agent in distributing information in such manner, but the service could be rendered by any trusty unofficial person. I am informed that an agent in Gothenburg, operating for the new Swedish settlement on the Aroostook, in Maine, receives a hundred letters weekly, inquiring about the prospects for emigrants there. Information calculated to promote emigration will have increased influence by being *official*. It should be practical and brief. I would recommend that a pamphlet be issued by the General Land Office, not exceeding thirty octavo pages, which shall explain the way of acquiring homesteads, and the economy of their cultivation and management; that shall explain how people without capital can acquire them, and also the inducements for people with capital to acquire them. It is a fact, I believe, that a settler who needs to work out for wages in order to get the necessary means to improve his homestead, can be absent therefrom a considerable part of the first five years of occupancy, and still hold his homestead. Such practical facts are the kind that should be circulated. Also, facts showing the amount of labor or money necessary to be expended in order to comply with the homestead law, the kind of crops the soil will produce, their value, the proximity of railroads to the land, the cost of subsistence, rate of wages, the season for planting and for harvesting, the rate of taxes, the privileges, both political and civil, the settler acquires, &c.

The local land officers are in daily intercourse with settlers from all parts of their respective districts. The General Land Office, by supplying the local officers with blanks containing the proper questions and readings, could, with no other expense than the cost of the blanks, obtain the requisite practical facts from the local officers. It could then prepare a pamphlet embracing information as to homesteads in the different sections and climates of the country, and which would meet the wants of a very large class of emigrants. If possible, a moderate-sized map should accompany such a document. If a pamphlet, such as I have indicated, were prepared in a careful manner by a competent person, having some actual knowledge of frontier life, and a heartfelt interest

in the subject-matter, it could be circulated in Europe (in the language of the country where circulated) to the very greatest advantage. Having given this subject earnest attention for a long time, and being deeply impressed with the importance of some measure such as I have just above indicated, I beg leave to ask that you will bring it to the notice of the President, so that, if he deems it advisable, he may give directions to the proper department to have it carried into effect. I would here emphatically state that there has not yet been made any thorough and systematic effort to circulate in Sweden and Norway information calculated to promote emigration.

State boards of emigration in a few instances have published pamphlets in Swedish and Norwegian, but their circulation has been limited and transient. Several States make large appropriations to encourage emigration, and maintain agents in New York, Quebec, Chicago, and perhaps other cities to attract emigrants. But it would seem to be a more economical method to impress the minds of emigrants before their departure from their native country, as the better class of them generally make up their minds as to their particular destination before embarking. Several hundred copies of the report of the Commissioner of the General Land Office for 1867, in Swedish, were received here a year ago, and delivered to the United States consular officers for distribution. The most of them, I believe, remain on hand, though the newspapers and public libraries had been supplied with them, and regular emigration agents had all they wished. It being a volume of 178 octavo pages, and the matter general, it is not of direct advantage. But in connection with the document I have indicated, it will serve as an excellent groundwork of information.

I have, &c.,

C. C. ANDREWS.

No. 385.

C. C. Andrews to Mr. Fish.

No. 110.]

LEGATION OF THE UNITED STATES,
Stockholm, June 10, 1871. (Received July 5.)

SIR: I have the honor to inclose herewith a report which I have prepared on the finances of Sweden, including an explanation of the various kinds of taxes and a statement of the public debt.

I am, &c.,

C. C. ANDREWS.

Inclosure.

Report of the finances of Sweden.

Report to the Department of State, by C. C. Andrews, minister resident of the United States at Stockholm, on the finances of Sweden.

I. CAPITAL RECEIPTS.

Under this head is included first "Allmänna bevilning," (general aid or contribution.) which also comprises the income tax. The statute, though general, is annually enacted by the Diet, and separately promulgated, as are all the new laws by the King. A trans-

lation of this law, with explanatory comments, is annexed, marked A. Annual receipts from the "Allmän bevilning" in riksdalers, (3.75 riksdalers=\$1,) riksdalers	3, 000, 000 00
Other resources, including profits on shares in the States Bank, which has a paid-in capital of 25,000,000 riksdalers; also including certain stamp duties, &c., &c.; say	2, 244, 839 85
From State loan	5, 000, 000 00
Total riksdalers	10, 244, 839 85

The above funds are administered by the public debt office, or "Riks" gälds-Kontoret, which also has the administration of the whole public debt. Its principal officers are a board of commissioners or deputies, who are annually elected by the Diet. It is therefore an institution under the peculiar charge of the Diet. The Swedish finances being administered by two independent offices, are, on that account, less readily understood.

II. ORDINARY RECEIPTS.

The several items under this head are explained in the annexed paper, B. These funds, together with the extraordinary receipts, are administered in the states office, "Riks Kontoret." Total receipts (ordinary) as estimated for 1872, 16,845,000 riksdalers.

III. EXTRAORDINARY RECEIPTS.

	Riksdalers.
The Diet of 1871, estimated for 1872, custom receipts	15, 000, 000 00
Post receipts	2, 230, 000 00
Paper stamp fees	1, 350, 000 00
Distillation of brandy (brännvinstill verk nighsofgrift) increased 10 öre per kanna by Diet of 1871, and now 80 öre per kanna	10, 800, 000 00
Total	46, 225, 000 00
To which add funds in "Riks" gälds-Kontoret	10, 244, 839 85
Total receipts	56, 469, 839 85
(At 3.75 riksdalers)	\$15, 058, 623 33

IV. DISBURSEMENTS.

For ordinary expenses for 1872, the Diet has appropriated for—

	Riksdalers.
Royal household	1, 417, 000 00
Department of justice	2, 532, 500 00
Foreign affairs	603, 800 00
War department	9, 994, 500 00
Navy department	4, 068, 500 00
Civil, (interior)	7, 704, 100 00
Finance	7, 329, 700 00
Ecclesiastical, including education	5, 664, 700 00
Pensions and retired list	1, 530, 200 00
	40, 845 000 00

For extraordinary expenses 1872, the Diet appropriated for—

Department of justice	100, 000 00
War Department	4, 113, 639 85
Navy Department	920, 000 00
Civil, (for railways)	4, 450, 700 00
Finance	143, 100 00
Church and school, (ecclesiastical)	439, 400 00
Pensions and retired list	428, 000 00
Total	10, 524, 839 85
Total	51, 469, 839 85
To which add interest on public debt	5, 000, 000 00
Grand total	56, 469, 839 85
	\$15, 058, 623 00

V. PUBLIC DEBT.

Amount, 119,352,686.67 riksdalers, (\$31,827,115.) A statement of the debt of Sweden is annexed, and marked C. The Diet of 1871 authorized the issue of 9,000,000 riksdalers of bonds of the forty-million loan in 1871 and 1872. A peculiar feature about this debt is, that it has been contracted almost wholly for railroads, which the loans have built, and are, for the most part, the property of the state. It is unnecessary to say that the securities of Sweden stand well in the market. The population of Sweden, December 31, 1869, was 4,158,757.

VI. GENERAL REMARKS.

No inconsiderable amount of the taxation in Sweden is for local purposes, such as the support of schools for the lower classes and the care of the poor. The receipts from the exclusively poor tax in Stockholm, for example, for the year 1867, were 481,644.49 riksdalers. The number of persons exempted from payment of taxes is as follows: Soldiers of the regular army, 3,924; on account of poverty, men, 147,335; women, 252,018; together, 399,403; on account of under or over age, males, 815,176; females, 807,201.

While it will be remarked how large a sum is appropriated for military purposes by a country whose relations with all other states are amicable, and which it would seem could by no reasonable possibility become involved in war, it is to be borne in mind that a still further tax is imposed on the people for the maintenance of the national or Indelta army, numbering about 30,000. This expenditure for the most part does not appear in the budget; the soldiers being directly supported by the agricultural population on the proportion of one soldier to fifteen farms. The Indelta soldiers perform military duty during the most of May and June each year, which, of course, is when the time of the agriculturist is precious. The abolition of the institution is a matter which is considerably agitated.

There are seldom any defalcations by collectors or holders of the public funds. The revenue officers, though paid small salaries, hold during good behavior, and, perhaps on that account, are less tempted to misconduct. (For some information as to stamp duties, fees, &c., see report of ex-Consul Thomas, p. 358, Commercial Relations, 1864; as to the Indelta, ex-Minister Bartlett's No. 24, Diplomatic Correspondence, 1865, 2,104.)

A.

The bevillning, or general tax law of Sweden, annually enacted by the Diet.

[Translation from the Swedish, with explanatory remarks.]

LEGATION OF THE UNITED STATES,
Stockholm, June 7, 1871.

Collection of Swedish statutes, 1853, No. 65. (To be read from the chair.)

His Royal Majesty's gracious notification concerning the common tax (bevillning) voted by the ordinary diet of the year 1868. ("Bevillning" originally as supplementary tax or aid to cover a deficit in the ordinary resource of the state.)

Dated at the palace, Stockholm, September 8, 1868.

We, Charles, by the grace of God, King of Sweden, Norway, the Goths, and the Vandals, to all to whom these presents shall come send greeting :

Whereas the Diet at its last session, after having examined the wants of the state, has undertaken a general tax for the year 1869 of 2,600,000 riksdaler rix mynt; and whereas by a petition in writing, bearing date the 15th of May last, the Diet has stated the alterations adopted by the Diet for its part in the existing statute of general taxes and in the instructions regarding the manner of assessing such taxes, and has prayed that we might be pleased for the government of every one to publish the said statute which, as altered by the Diet, is of the following tenor and contents, viz :

Tax of the Swedish Diet for the year 1869, and the years ensuing, up to the end of the year, in the course whereof another statute of taxes will have been established by the Diet.

ARTICLE I.—Personal protection tax.

§ 1. Every individual entered in the lists of taxable persons, (mantals lüngd,) and chargeable according to existing laws with poll-money, is liable to pay a tax for individual protection, as follows : a man, 40 öre ; a woman, 20 öre.

ARTICLE II.—(A).—*Tax on real property.*

§ 2. For every real estate situated in the kingdom, except those belonging to the government, the owner shall pay a tax proportionate to the assessed value thereof.

The respective tenant is liable to pay tax: (a.) For crown lands and parcels of such lands held by heritable tenure. (b.) For lands, parcels of lands, and messuages or separate buildings belonging to the government, and which either are allotted to public officers for their residence or as part of their income, or else held on lease for life.

This tax is raised.

1st. On *landed property* at the rate of three öre ($\frac{3}{100}$ of a cent) for every even sum of hundred riksdalers, \$26 48 of the assessed value.

2d. For *real property of any other description*, at the rate of five öre for every even sum of hundred riksdalers of the assessed value. From this tax the following are exempted: communities, (parishes,) academies, (universities,) scientific associations, public schools, and charitable institutions, for buildings belonging to them and to corporations of military officers, and erected on regiment camps, and used during the time of the yearly encampments, and also churches and oratories belonging to private individuals, still upon the understanding that such buildings do not yield any revenue to their owners by way of lease or otherwise: in the contrary case those buildings shall be assessed according to the respective amount of revenue, and shall be chargeable with tax at the respective rates stipulated above. Further, proprietors of canals, railways, and other highways are exempt from tax for the land occupied by the canal or the way, and also for their works and structures, (they are not exempt from income tax.)

Frilseriänta (or quitrent) land is also considered as a real estate of the kind mentioned in section 2 of this paragraph.

§ 3. Every *real estate* shall be *estimated* at the *actual value* thereof, ascertained by means of purchase agreements, leases, amount of rents, valuations made with a view to mortgaging such estate, or insuring the same against fire, together with other statements given or informations obtained relatively to the nature and the revenue of each separate estate; in which respect the enactments contained in the instructions issued concerning the mode of assessing taxes are to be strictly complied with.

The *capital value* of a quitrent is to be estimated at twenty times the sum to which the same rent amounted according to the government rates of the year next preceding, unless the rent, pursuant to § 14 in the royal statute of May 11, 1855, is payable at average rates, ("marhegångspris" rates, fixing for every year the cash price of rents reserved in kind,) which in such event shall form the basis in calculating the amount of the quitrent. Still, it is understood that the principal value of quitrent is always to be calculated in even amounts of riksdalers, and accordingly any excess of öre shall not be counted, unless it exceeds 50 öre, in which latter case the same is counted for one full riksdaler.

§ 4. In *estimating* real estates, *separate values* are to be assessed: (a.) In towns, for the building ground, the buildings thereon, and the land, if any, applied to agriculture; (b.) In the country, for every separate estate, ("heman,") or any parcel of such estate with separate ownership, and every tenement separated forever or for certain periods from the manor to which it originally appertained, and also for such buildings as are not used for purposes connected with agriculture, or as are erected on country-seats or other smaller places of a like description, so as to form the essential value of such country-seats or places.

§ 5. The tax chargeable on any real estate is to be *assessed* and *paid* at the place where the estate is situated, and account therefor to be rendered at the same place by the collector.

B.—*Tax on income from capital or labor.*

§ 6. On any *income* from *capital*, as well as *labor*, a tax shall be paid at the rate of one per cent. of the net proceeds of the income.

As *income of capital* are considered interest of money lent out, or vested in bonds bearing interest, or deposited with banks or banking establishments or with individuals, also interest and such profit as cannot be included in the denomination income from labor. As *income of labor* are considered any income accruing from trade, profession, service, or office, as profit by mining, with all works, trades, and establishments belonging thereto; by corn and saw mills, factories, machine-manufactories, distilleries, and other works for making or improving merchandise and commodities; by banking, commercial and ship-owners' business, navigation, and any craft or trade not relative to agriculture; by canals, railroads, and other highways opened to public traffic; the profit earned from the exercise of any science, art, or handiwork over and above the expenses connected therewith; wages, appointments, salaries, and allowances, fees, or any other benefit from public service or private employment, and pensions, yearly gratuities, life-annuities, and reserved uses in real property, ("undantages-förmåner.")

Officers or functionaries belonging to the diplomatic legation of Sweden and Norway in foreign countries, or else employed in the foreign department, are chargeable with

income tax in Sweden for such part of their salaries as is equal to the contribution of the Swedish government to the same salaries.

The *lessees* of such real estates of the government as are exempted from tax, in pursuance of § 2, are liable to pay tax for the income earned by them from the said leases.

§ 9. *Basis for calculation of income.*—1st. As regards the income from capital or labor whereon tax is levied, no deduction is allowed for the maintenance of the taxable individual and of his family, nor for any expenses falling under that head.

2d. In the income for which tax is payable by individuals enjoying salaries, wages, fees, allowances, &c., &c., shall not be included: income of salaried officers from places or lands appointed for their residence, and for which places or lands the tenant has already been charged with land-tax; nor that part of the pay of officers in the national army which forms the revenue from such places and lands of the last-mentioned description as are let out on lease through the respective board of management, and for which land-tax is paid; nor any amount granted for defraying special expenses connected with the performance of public offices or commissions, such as traveling expenses, fees for attendance at any other place than the usual place of residence of the functionary or other party attending, fees or allowance for ordered military service out or away from the respective station, pay for active service in time of war, fees on allowance to members of the Diet, or auditors when acting at other places than their habitual place of residence, the "provost tithes" of the clergy, ("prostelunaor," out of the tithe-corn one tub of corn is generally deducted in every parish for the benefit of the respective ecclesiastical provost, originally as a remuneration for trouble in collecting the tithes, and the indemnity paid to certain military officers in the national army for want of dwelling-houses at their official seats of residence.

Deduction is likewise allowed for the following expenses, to wit: the payments incumbent on functionaries, in their official capacity, to pension-funds or funds for the support of widows, children, or others, wages or other remuneration to substitutes or assistants, the duties (perpetual) imposed on the clergy under the denominations of "Gården" and "Taxen," ("Gården," contribution toward defraying expenses of war "Taxen," imposts payable by clergymen for immunity from the duty of lodging soldiers in their houses,) payments for interest and amortization to the fund for reimbursement of costs incurred on parsonages in the province of Scania, in constructing buildings beyond the extent enacted by law, (in the said province parsons are bound to build houses on their parsonages or to redeem those already existing, but they are entitled to reimbursement therefor from their successors, and in order to facilitate such reimbursement, in most instances causing a heavy outlay of capital, a special fund has been established for the purpose of advancing the necessary money;) the deductions made from the salaries of provincial governors and military officers to cover payments for interest and amortization to the sinking-fund for abolishing agreements respecting succession in office, ("achordsamortering," formerly public functionaries, generally paid, before entering in office, to the predecessors or to their heirs, certain sums of money as fixed by agreement;) and traveling expenses in the performance of official duties if indemnity therefor, has not been specially fixed.

3. Incomes by mining, manufacture, commercial and shipping business, and any craft, trade, or profession, as well as extraordinary or not fixed incomes of public functionaries, are assessed for the current year, and are generally to be computed according to the circumstances during the year next preceding.

Wages totally or partially consisting of the produce of crown rents, ("indeltälöner,") or otherwise payable in grain or in kind, shall be computed in cash according to the last government rates of the respective places.

In computing the net income from capital or work, the commissioners will for the rest have to comply with the enactments and special provisions in such respect, contained in the above-named instructions regarding the manner of assessing taxes.

§ 8. *Exceptions from the provisions contained in the sixth section.*—Income from capital or work is not charged with tax, if the total yearly incomes of the ratable individual be less than 400 riksdalers, and should they not exceed 1,800 riksdalers, an amount of 300 riksdalers of the incomes by capital or work shall be exempted from tax.

Whenever a husband and his wife carry on separate trades or business, the before-mentioned immunity or modification shall be computable according to the aggregate amount of their incomes.

The following are further exempted from income tax:

(a.) The state, churches, academies, or scientific associations, the iron office, while the profits of this institution are applied to public benefit, ("jener-kontoret," an establishment for the encouragement and the support of the iron trade,) the provincial agricultural societies, public schools, and establishments for instruction, stipend funds, (for the support of poor students, young artists, &c.), pensioning funds, infirmaries and poor-houses, as well as other charitable institutions; savings-banks, towns, and communities; however, for wages, appointments, pensions, &c., paid out of the funds of the establishments and institutions enumerated above, income tax is to be levied on the individuals enjoying the same, at the rates fixed with respect to other persons enjoying

wages or remunerations of like description. Further income tax shall also be charged on the net proceeds, which, during vacancies of ecclesiastical officers, devolve, by virtue of existing regulations, to funds under the management of the consistories of this kingdom, and, also, on advowsons, ("pateonj ecclesiarum," in Scania, Halland, and Bohuslän, who are entitled to obtain corn from this due to the crown or to the church, and likewise on such title belonging to churches in the said provinces as is not applied toward defraying salaries, or other ordinary expenditures, and on the cathedrals of the kingdom, for their revenue in corn or ground-rents, after deduction having been made only for such specially appointed ordinary salaries for which the individuals receiving the salaries are chargeable with tax, as provided before by the sixth section of the present article.

(b.) Members of the royal family, for the revenue appointed by the state and for income from capital.

(c.) The officers or functionaries holding employments in the Swedish and Norwegian legations abroad, or else belonging to the foreign department, for such part of their salaries as is equal to the contribution of the Norwegian government to the same salaries, and also the persons belonging to the legations and consulates of foreign powers in Sweden, together with their servants, unless they are Swedish subjects, or carry on mercantile business or other trade in this country.

(d.) Foreigners, staying in Sweden solely as travelers, and who do not carry on any trade in this country, nor are engaged in the service of the state, of a community, or of a Swedish subject.

§ 9. Income tax for capital or labor is assessed at the places mentioned below, viz, on banking companies at the place or places, one or more, where their business is principally carried on, and in default of such fixed places, where the board of directors have their seat.

On manufactures, merchants, or other tradesmen, where the manufactory is situated, or the business or trade is principally carried on; still, merchants in towns comprising more than one parish are, as regards their business in such towns, liable to pay tax in the parish where they are entered in the register of taxable individuals.

On owners of shares in vessels at the place where the managing owner is taxable, or in default of such managing owner in the port to which the vessel belongs.

On persons living abroad who are pensioned by the Swedish government or by a public establishment, at the place where the pension is paid; on any other individual liable to pay tax at the place where he or she is registered as a taxable individual.

§ 10. For income assessed at another place than that where the respective person is registered in the list of taxable individuals, as well as for the income of any company, no immunity or reduction according to § 8 is granted.

ARTICLE III.—(A).—Tax chargeable on freehold estate.

§ 11. Besides the land tax payable on real property according to the assessed value thereof, as provided by the second article, the following duty shall continually, as heretofore, be raised on frank fees, ["frälse egendern," freeholds "demeniam plenum," landed estates are so called when the property in the soil "deminium funds" as well as the use or rent thereof "deminium fructus," is jointly vested in a private owner, and not in the Crown; they enjoy certain immunities in consideration, among others, of the knight or horse service, "rusttjenst," incumbent on the estates. However, as such immunities were found too great, especially when the said service was not performed, a separate tax was stipulated in the year 1719, and has been but slightly altered since that year,] viz, thirty öre for every "rusttjenst mark," according to, filed and correct knight-service-roll, and to the land-roll of the province where the estate is situated ["rusttjenst mark," the value expressed in the old coin marks, and fixed at very low rates of a few specified articles, given among others, as rent by the tenant, "rusttjenst persedlae."]

One-half of the said duty or tax ceases whenever the service is actually performed, and no such duty is raised on mansion lands and messuages, ("säterier" och "ladergårdern,") nor on freeholds belonging to the Danvichs hospital, ["säteri," lord's seat or manor place; land where the lord of the manor resided within his fee, still the most privileged kind of landed property. "Ladugård," literally signifying farm-yard and buildings, is a pauk message annexed to the mansion land for the benefit of the same, and it enjoys like immunities. "Danviks Hospital," a charitable institution near Stockholm, possessing a number of pauk farms at several places.] Franktenements, the rent whereof is not reserved in such specified articles ("rusttjenst persedlar") as formed the basis in fixing the number of troopers to be furnished, or which are not entered in the knight service-roll, are, in assessing the said duty, assimilated to the nearest adjoining freeholds of a comparable nature; but the following duties are raised on franktenements situated out of the parish of the manor place, viz: On those in Scania five riksdaler, thirty-one öre, and in Bleking five riksdaler, and in Halland and Bohus-

län four riksdaler, eighty-four öre, all for every entire reduced "mantal," and proportionally for parcels of such estate.

The frank farms situated within the boundaries of or in the same parish as a manor place pay only the half of the duty fixed for such estates when situate out of the parish, and they enjoy, in case troopers are furnished, the same deduction as that stipulated above.

For small estates of freehold tenure in Seania, Halland, Bleching, and Bohuslän, which are entered in the land-roll, fifty-three öre are payable for every tub of "hard corn" of the ground-rent fixed thereon. "Hemman," home of a man, a landed estate forming by itself an independent possession. "Lägenhet," an appurtenance of such an estate from which it has been separated. "Mantal," "number of men," signifies a piece of land sufficient to afford the means of subsistence to a farmer's family, and a surplus necessary for paying ground-rent and other taxes. A "hemman" consists of one or more mantal, or fractions thereof. "Hartkorn" is a Danish term, signifying almost the same as the Swedish "mantal."

(B.)—*Tax on post and pilot estates.*

§ 12. For *post* and *pilot* estates [crown lands held under the obligation to convey *post* and to furnish *pilots*] which are exempted from the duty of providing foot-soldiers or sailors for the navy and from carriage for the wants of the Crown, a special tax is payable at the rate of three riksdaler for every entire "mantal," and at a proportional rate for the smaller estates, which tax, however, does not apply to the estates exempted only from the said carriage.

(C.)—*Tax for right of commons.*

§ 13. For the right of *cutting wood* in such commons belonging to the Crown as are toward a certain duty allotted to the use of iron-works, smelting-houses, or mines, a tax of twenty-five öre is raised on each cord or stack of wood, ["stafrum," 27 cubic feet,] or on the corresponding quantity of eighteen tubs of charcoal; and this tax is levied, whether the said right of cutting wood is made use of or not, on the quantity of wood or charcoal for which the said duty [3 to 6 öre for the above-named quantities of wood or charcoal] is payable in each year, according to privileges or decisions.

§ 14. For the right of *taking charcoal* in district or parish commons, whenever the respective district or parish does not obtain payment therefor equal to the said tax, together with the duty which, according to the regulation of the year 1752, is paid for the use of Crown forests and commons, the tax shall be increased so as to render the (total) payment equal to what is paid for the use of the Crown forests.

(D.)—*Tax on banking companies entitled to issue bank notes.*

§ 15. Every *private bank* entitled to issue *bank notes* pays, besides the tax stipulated by the second article, a duty of two riksdaler for every sum of thousand riksdaler of the highest amount in bank notes which circulated at the same time during the year next preceding; and, in order to afford due information for the proper assessment of this duty, the board of directors to any such bank are bound, in the beginning of every year, to deliver a statement showing the said amount of bank notes, which statement shall be verified by the commission appointed by the respective provincial government.

(E.)—*Tax payable by foreign merchants and traveling clerks.*

§ 16. Any *foreigner* who travels about in the country, and who, on his own behalf or, as agent for others, offers for sale or contracts for the sale of foreign commodities, is bound, on his arrival in this kingdom, to deliver to the nearest collector of Crown taxes in the respective town a declaration in writing stating how long he intends to remain here, and on the same occasion he shall pay 100 riksdaler for the right of carrying on such business during a period not exceeding three months. If he desires to exercise the same right after the expiration of the before-mentioned period, he is further bound to pay in advance a monthly tax of 40 riksdaler, payable either at once for a longer period, or at least for one month at each time, but in every case for full months, unto the collector of Crown taxes in a town situate within the county (län) where he stays at the time of payment. Receipts for such payment are delivered on printed forms, which, on demand, are sent in by the national-debt office (Riksgäldskontoret) to the county or provincial governments, to be held by them at the disposal of the collectors of Crown taxes residing in the towns. The said printed forms, issued part for 100 riksdaler and part for 40 riksdaler each, shall contain a memorandum referring to the enactments of existing regulations with regard to such kind of trade.

Should it be found that a foreigner offers for sale, or sells, foreign goods without having previously paid the fixed tax, he becomes liable to pay a fine of 500 riksdaler,

besides the tax. Infringements of these provisions shall be submitted to trial before the police court, if there exists any at the place, or else before a common court, and the imposed fines are to be divided in equal shares between the accuser and the poor.

The collectors will have to pay the tax money so raised under the head "*Tax paid by foreign merchants and traveling clerks*" to the provincial treasury in the same manner as other funds collected for the account of the State; and returns of the blank receipts obtained and employed shall at the end of every year be sent in to the provincial government which will have to examine the same and to attest the correctness thereof; whereupon the returns are to be sent in to the national-debt office before the end of the month of January in the year then next ensuing, in order to be compared with the returns of the provincial treasuries and finally delivered to the royal board of the exchequer, where they are referred to in examining the accounts.

Respecting the blank receipts sent from the national-debt office to the provincial government, and which shall remain in the custody of the provincial treasuries until they are handed to the collectors, proper returns shall likewise be sent in to the said office before the end of the month of January in every year.

The provisions contained in the present paragraph relative to the special tax payable by foreign merchants and foreign traveling agents, do not apply to Norwegian subjects trading in Norwegian produces.

(E.)—*Tax payable by foreigners for concerts and dramatic or other performances.*

§ 17. Any foreign man or woman, who, with the permission of the proper authority on his or her own account and for money, gives a concert or other musical, theatrical, or equestrian performance, or exhibits rope-dancing, juggling, cosmoramas, panoramas, or other optical and artificial works, cabinets of wax figures, and of natural curiosities, or zoological collections, and so forth, shall pay for every separate concert, or for every day when plays or other performances are given at Stockholm or Gothenburg, 3 riksdaler, and elsewhere in the kingdom, 1 riksdaler 50 öre. Before the permission is granted every such player, stage-manager, artist, or exhibitor is bound to prove either that the fixed tax for the respective period or occasion has been fully paid, or that approved security therefor has been lodged with the proper collector; and in the latter case the tax due for every month shall be fully paid before the expiration of the same month. At the time when such payment is made, the party liable to make payment shall hand to the collector a certificate issued in a town or city by the proper public accuser, and in a borough or in the country by the Crown bailiff, showing the number of concerts given or of the days of performance or exhibition, which certificates ought to accompany the account for the taxes paid to be rendered by the collector. Moreover, the collector's receipt for the tax paid for the last performance given in the kingdom shall, before a new permission is granted, be produced by every such foreigner when arriving at another place with the same intention.

For the purpose of controlling the due payment of the tax in question, it is incumbent on the public officers mentioned above, at the end of every six months to state in writing to the proper provincial or county government how many performances of the said description have been given there during such period, or if no such performance has taken place likewise to give notice thereof; and further the collectors are bound, before the end of the month of January in the following year, to send in to the proper local government an account for the taxes of the said kind paid in the course of the preceding year; which accounts and returns shall accompany the Crown tax accounts when sent in to the board of the exchequer.

(G.)—*Tax on gifts, wills, entails, inheritances and treasure-trove.*

§ 18. 1.—For gift of real estate with absolute title property in the estate a tax of 1 per cent. is paid.

2. For wills of real or personal estate, or of capital or claims, with entire property in the estate or capital, a tax of one per cent. is payable.

3. For entailed estates (*Fide Kommiss*) is paid, by every one who succeeds to or takes possession of such entailed estate or capital, one per cent. of the common (*bevilling*) tax.

4. From payment of the taxes provided in the foregoing three sections, are exempted: (a) Surviving husband or wife; (b) Relation in direct ascending or descending line, and brothers and sisters or their descendants; (c) Any other more distant heir for his legal hereditary share, and also for any amount given over and above the said share, provided that such excess does not reach the principal sum of 1,000 riksdaler; (d) Churches, universities, scientific associations, public schools, and other public establishments for instruction, funds for paying stipends or pensions, infirmaries or poor-houses, and other institutions of a philanthropic character; also (e) every one whenever the value of the estate or capital does not amount to 1,000 riksdaler.

5. For inheritance of real or personal estate which does not go to relatives in a direct

ascending or descending line, brothers and sisters or their descendants, but to remote heirs there is payable 1 per cent. on the common (bevilning) tax where the inheritance amounts to 1,000 riksdaler.

§ 19. On payment of taxes for gifts, wills, entails or inheritances, the value of real estate is computed at the rate fixed at the last assessment of common tax, and the personal estate is estimated according to inventory, arbitration, or decision of the court of justice.

Whenever an entail falls to a person who by virtue of section 3 in § 18 is liable to pay tax for the same, the new donee or holder is bound within twelve months from taking possession of the entail, either to pay the fixed tax to the proper collector, or if a law-suit has been commenced respecting the right of entail, to give a good and approved security for the payment of the tax not later than one year from the decision of the law suit, by a judgment valid in law; in failure whereof the defaulter is subject to a fine of 10 per cent. of the amount of the tax to the benefit of the accuser.

With respect to the enforcement of the due computation and payment of, and account for, all taxes for gifts, wills, and inheritances the provisions embodied in a separate statute are to be complied with.

§ 20. For found property a tax shall be paid at the rate of 1 per cent. of the value if amounting to 1,000 riksdaler. However, such found articles as have an historic or antiquarian interest are exempted therefrom.

(H.)—*Tax for playing-cards.*

§ 21. Besides the common tax provided for the net proceeds of the business of any manufacture, playing-cards are subject to stamp duty, as enacted by a special statute.

(I.)—*Tax on newspapers and periodicals.*

§ 22. The stamp duty provided by a separate statute for newspapers and other periodicals is likewise payable without deduction from the common tax to which publishers and editors are subjected by virtue of the present statute.

(K.)—*Tax for grants of honorary official titles and dignities.*

§ 23. [This section contains provisions of but little interest and importance concerning a yearly tax payable by the holders of honorary titles and dignities. This tax amounts to 10 and in some instances 6 per cent. of the stamp to be put on the letters-patent and other deeds conferring the same titles and dignities; minimum tax 4 riksdaler 50 öre.]

§ 24. The special tax on banks provided by the present article is charged and paid in the town where the bank or its head office is established. The tax on legacies or inheritances is paid either at the last place of assessment of the individual leaving the property bequeathed or inherited, or at the place where an approved security or bail for the payment of the tax has been put in.

The tax on entailed property is raised at the place where the same property exists or at any other place where such bail for the tax has been delivered.

Therefore * * * we have judged proper to ratify and confirm the foregoing statute of taxes.

The palace of Stockholm, September 8, 1868.

[L. s.]—Gustaf af Ugglas.

CARL.

B.

ITEMS OF THE ORDINARY RECEIPTS.

1. "*Ordinarie ränta*."—The ordinary tax which from the earliest times was imposed on land in Sweden, under the name of "*grund ränta*," or "*jordeboks ränta*," on the theory that the title to all the soil was in the sovereign.

The system had its first organization during the reign of Gustavus (1) Vasa, 1521–1560, when the taxes on landed estates were entered in the land-books or rolls under the head of "*ränta*." The tax was payable in kind till the law of May 11, 1855, made it payable principally in money. For over a century it has been denominated "*ordinarie ränta*." The amount of tax of this nature which each estate had to pay was in most cases fixed centuries ago by local boards of five officers each, consisting of the steward or collector of taxes, judicial clerk, the surveyor, and two sworn peasants. A county was divided, as still is the case, into from four to six districts, each of which had a board of these officers (*Fögderi*) for such purpose. They determined the annual aver-

age amount of produce of each estate, which amount remained fixed. The value of the produce is annually determined according to the average value for the ten years preceding. The annual tax therefore varies according to the rise or fall in the value of produce.

Estates which were the seats of the nobility were entirely exempt from this tax on the ground that the proprietor was bound to render personal military service. These latter estates were denominated "ypperligst frälse," (select frälse or freeholds,) and according to a report of a committee of the Diet in 1864, the taxable value of them all was in 1862, 212,274,828 riksdaler.

The "allmant frälse," (common frälse,) which according to said report were of the value of 374,496,774 riksdaler, are privileged estates which pay a small "ordinarie ränta;" while the unprivileged originally peasant lands on which the burden has principally fallen, were valued at 1,203,872,945 riksdaler. As a trifling equivalent for exemption from "ordinarie ränta," the frälse estates were, since the year 1719, required to pay a military tax called "rusttjänst bevilling," the whole amount of which is 70,000 riksdaler per annum.

The report of the committee above referred to cites numerous examples of the inequality of the "ordinarie ränta" tax, a few of which are as follows:

County, or län.	Taxable value of estate in 1862 in riksdaler.	Amount of ränta tax charged upon the farm in riksdaler.	County, or län.	Taxable value of estate in 1862 in riksdaler.	Amount of ränta tax charged upon the farm in riksdaler.
Upsala	8,000	427.07	Cällnar	15,300	102.25
	8,000	102.36	Jönköping	98,000	129.70
	28,000	590.91		7,200	134.81
Stockholm	16,000	427.22	Christianstad	50,000	42.08
	39,000	83.93		10,000	2.40
Södermanlands	10,000	358.07	Malmö	113,000	29.99
	14,000	22.96		37,700	6.64
Cällnar	96,000	160.19			

These examples serve to show the artificial and inequitable nature of the system. Its reform or abolition constitutes one of the prominent political questions of the day in Sweden. Annual receipts from the tax, 4,800,000 riksdaler.

2. "*Tiondensemial*," (tithe of grain,) or "*kronostionde*," (crown tithe.)—It appears from the old laws that the tithe contribution was first enacted at the Diet of Skenenge in 1864. The priest generally took one-third of the tithe, and the other two-thirds were divided between the church, the bishop, and the poor. This comprised the so-called field tithe. But besides this there went to the priest the whole of the rate tithe, also the tithe of shoal and net fish, of birds and "grey pelts;" also a yearly "mat-skatt" subsistence on certain church days, of every peasant landholder. After the year 1539 the tithe was paid into the state's treasury and designated as the crown tithe. In 1600 it was enacted that the priest should take his third of the tithe to his own barn and have it thrashed himself, but that the other two-thirds should be thrashed by the peasant. In 1739 this tax was considerably reduced and became a tithe only in name. Since 1855 it has been payable in money instead of in kind, and is an absolute charge on estates whether crops are raised or not. It is fixed in the same manner as the "ränta" and is similar to that in respect to its arbitrary and unequal nature. Annual receipts from, 1,600,000 riksdaler.

3. "*Ärendemedel af kungagårdar och andra krondlägenheter*."—Tenancy means from the King's farms and other crown lands.—These farms and lands, though called the King's, are in no sense his individual property. The rent is paid annually into the state treasury under leases granted at auction, for a term of years, to the highest bidder. The principal part of the rent is paid in grain. Total receipts annually 416,000 riksdaler.

4. "*Silfvertionde*," (tithe of silver.)—In 1649 one-tenth of the product was paid to the government; but by the law of 1831 it was reduced to one-thirtieth. Annual amount received, 15,000 riksdaler.

5. "*Kopparränta*," (tax on copper.)—In 1649 one-tenth of manufacture paid to the government. June 21, 1831, reduced to one-thirtieth. Annual amount derived, 75,000 riksdaler.

6. "*Svafvelbruks tionde*," (tithe of sulphur.)—The statutes of 1649 and 1723 provided that a tenth of the manufacture of sulphur should be paid to the Crown. The act of June 21, 1831, reduced the tax to one-thirtieth of the manufacture. The amount derived annually is 3,000 riksdaler.

7. *Tionde tackjern*, (pig-iron tithe).—Annual receipts 40,000. The value of the product of pig-iron in Sweden in the year 1869 was 17,183,305.70 riksdaler, so it can be seen the tax is nominal and exceptional. An act of the Diet of 1871 discontinues it after the year 1872.

8. *Mantals pennengar*, (number of men or poll-money).—A personal tax which originated in 1605, when, for the outfit of soldiers, the government imposed on peasants, their wives, and every person on the premises from sixteen to sixty years of age, one öre each per month. In 1609 the Diet imposed on the unnooble classes a marriage tax of six marks for every marriage. In 1625, to help sustain the wars of Gustavus Adolphus, a tax was laid on grain which was carried to mills to be ground, viz: for 1 tunna (1 bushels) oats, 2 öre; 1 tunna of barley or malt, 3 öre; 1 tunna of peas, 6 öre; 1 tunna of rye, 8 öre; 1 tunna of wheat, 12 öre, &c. It was in some instances resisted, and a miller in Upsala was beheaded. The tax was evaded by the use of hand-mills at home, whereupon the Diet, in 1627, imposed a personal tax of 1 mark on every person of the peasantry, or farming class, over twelve years of age. The "mantals pennengar" tax of 12 to 16 öre began to be enforced in certain districts, including Finland, in 1634, and in 1635 amounted to 167,476 riksdaler. The mill or toll tax yielded in 1632, 87,251 riksdaler. It was then discontinued and the "mantals pennengar" tax increased to three marks (half a riksdaler) for every person. It so continued until 1652, when the ages of those liable to pay it were fixed at over sixteen and under sixty-three. In 1741 the ages were fixed at seventeen to sixty-three years, and again in 1857 fixed at eighteen to sixty years. The nobility were originally exempted from its payment, but paid it from 1622 to 1640, when they were again exempted, and so continued until 1810. The tax at present amounts to 630,000 riksdaler, (\$168,000.) It is paid by men with 40 öre, women 20 öre.

9. *Botes medel*.—Proceeds of fines, annual amount, 170,000 riksdaler.

10. "*Kavalleri-Regementenas häst vakaus spannmål*."—Certain *indelta* or national militia regiments which do not provide horses but pay money instead. Tax on the farms which support the *indelta* soldiers. Annual receipts, 300,000 riksdaler.

11. *Till fältiga rote vakans afgifter*.—Payment for accidental soldier vacancy or deficiency. Tax on farms which should furnish a soldier. Amount, 7,500 riksdaler.

12. *Vakans afgifter af ni roterad joid*.—Farms that were not included in the original list of those that should furnish a soldier, (*indelta*), and which now pay money instead. The tax originally was 3 riksdaler *banco* for each man. Annual receipts, 100,000 riksdaler.

13. "*Rote vakans afgifter af utsoekne fälse heman i Halland*."—Commutation of the furnishing a soldier by former privileged farms in Halland County. The tax was imposed in 1847. The tax is two-thirds of the cost of maintaining a man. Annual receipts, 24,000 riksdaler.

14. *Rote vakans afgifter af bergs layer*.—Payment of soldier deficiency in the mining districts. Receipts, 18,000 riksdaler.

15. *Toss passercollans afgifter*.—Tax for transportation on land-owners (who furnish *indelta* mounted men) in lieu of actual transportation. Receipts, 26,000 riksdaler.

16. *Batmansvakans afgifter*.—Tax for exemption in supplying seamen. Seamen for the navy are furnished on the same principle as the *indelta* in the army. Owners of land adjoining the sea, also some towns, have to furnish seamen. In the country the men are actually furnished, and are provided with a "torp" (small homestead.) This tax in money is paid by real-property holders in towns. Annual receipts, 70,000 riksdaler.

17. *Kontroll stäm pelmedel*.—Fees for stamping gold and silver manufactures. Every article of silver or gold manufactured in Sweden must be stamped by a government officer. Amount of the fees annually, 12,000 riksdaler.

18. *Fyr och båk medel*.—Marine light and beacon fees. Fees paid by shippers. A vessel coming from abroad, whether domestic or foreign, pays 50 öre per läst. Annual receipts, 600,000 riksdaler.

19. *Telegr af medel*.—Receipts from telegraphs. There are eight thousand miles of telegraph lines in Sweden belonging to the state. The tariff for ten words any distance over the lines is 1 riksdaler, (28 cents.) Receipts, 800,000 riksdaler, which cover all expenses.

20. *Jern vägstrafik medel*.—Receipts from the staterailways annually, 7,000,000 riksdaler.

21. *Skogs medel*.—Receipts from forests. The Swedish forests are carefully preserved. They are granted for a term not exceeding fifty years, at \$5 per acre, but no trees are allowed to be cut which are less than ten inches in diameter. Receipts, 400,000 riksdaler.

22. *Öberrations medel*.—Payments on auditors' reports for items erroneously booked in public accounts. Amount, 2,000 riksdaler.

23. *Extra medel och uppbörder*.—Extra means and collections. Amount, 70,000 riksdaler.

24. *Intusse medel*.—Interest. Amount, 5,000 riksdaler.

Date of loan.	Object.	Interest.	Amount in rixdaler. 3 75 rixdaler = \$1.	Date and rate of redemption.	Remaining due Dec. 31, 1889, except as to last loan.	Where negotiated.
September 30, 1841	War, 1808, 1809	4 annually	5,808,000		1,980,000	Stockholm.
June 30, 1855	Railway	4 and 3 1/2 semi-annually	21,921,900		210,900	Germany.
March 1, 1858	do	4 1/2 semi-annually	21,841,333 1/2		18,714,933.33	Do.
May 1, 1860	do	4 1/2 semi-annually	21,333,333 1/2		18,839,200	Preme obligatione, Germany.
May 1, 1860	(Without interest)	do	5,333,333 1/2		4,100,000	London.
March 30, 1861	do	4 1/2 semi-annually	3,000,000		2,718,700	
April 15, 1864	do	4 1/2 semi-annually	39,569,400		9,536,820	
January 2, 1866	do	5 semi-annually	26,486,133 1/2	{ 1870 by 1,920,000 riksdaler	{ 26,242,933.34	Germany.
June 30, 1867	do	5 semi-annually	6,000,000	{ 1871 by 1,950,000 riksdaler	{ 6,000,000	
July 1, 1868	do	5 semi-annually	20,700,000	{ 1872 by 1,230,000 riksdaler	{ 20,647,800	London.
September 30, 1869	do	5 semi-annually	4,000,000	{ 1876 by 1,000,000 riksdaler	{ 3,319,400	
September 30, 1870	do	5 semi-annually	40,000,000	{ 1877 by 1,000,000 riksdaler	{ 7,022,000	Sweden, 7,022,000 riksdaler.
				{ 1878 by 1,000,000 riksdaler		Had been issued and was due Dec. 31, 1870. Bonds, when first issued, sold at 98 1/2 June, 71 worth 98.
				{ 1879 by 1,000,000 riksdaler		
				{ Payment to begin in 5 years after issue.		
				{ Whole to be paid 40 years thereafter.		
				Total	119,352,636.67	
				At 3 75	\$31,627,115	

No. 386.

Mr. Andrews to Mr. Fish.

No. 116.]

LEGATION OF THE UNITED STATES,
Stockholm, July 24, 1871. (Received August 18.)

SIR: Having in my No. 100, of March 20, submitted to the Department some remarks on the diffusion by the General Land Office of information as to the means of acquiring and methods of cultivating homesteads on the public lands with a view to promote immigration, I now take the liberty to offer a few suggestions respecting the best means for increasing immigration from Europe to the older States, and more particularly to the Southwestern and Southern States.

The plan, in brief, which I recommend is the preparation by State authority of a pamphlet setting forth the resources and opportunities in the State for immigrants, and its circulation in those countries from whence immigrants are desired.

1. The preparation of the pamphlet, its size, contents, &c., in my judgment should be published by authority of the State interested so as to have full official weight, which latter goes far in Europe. The very best, most experienced, and most practical talent should be employed in its preparation. It should be candid and brief, say not over forty pages in length. The more pains taken with it the briefer it can be made. Voluminous documents are not read by the masses; and, besides, postage in Europe on printed matter is high. For example, the postage here in Sweden on the recently issued special report on immigration by the chief of the Bureau of Statistics—a document of 258 octavo pages—is 20 cents in gold.

It must not be too general. The sensible man intending so grave a step as abandoning his native country, crossing an ocean with his family and seeking a home in a strange land, desires facts; and mere “glittering generalities” will rather tend to excite his distrust than inspire his confidence. For a concise *general* description of a State, the sketch of North Carolina on page 176 of the report above referred to will almost answer as a model.

In the general description of the State the number of the population should be given, its area, elevation, geological characteristics, &c. To say it has a healthy or a salubrious climate is rather to state a conclusion than a fact. Let the facts be stated so that the reader can form a conclusion for himself. For instance, the writer should give the statistics of health and mortality of the principal geographical districts and the average temperature.

As to land, what proportion arable, cultivated, and uncultivated; what proportion swamp; what too hilly or rocky for field culture; what proportion timber, and the various kinds and usual size of each kind; the kind of rocks and springs.

As to the streams, whether sluggish or rapid, color of water, the kind of fish that inhabit them; to what extent the banks are high, to what extent low and subject to overflow.

Under the head of agriculture I would state the nature, quality, depth, and color of the soil; number of days in the year without frost; the principal crops raised; average yield per acre; quantity of seed required per acre; usual season of planting and of harvest; time required for the crop to mature; kind of cultivation; to what extent by manual labor, to what extent by machinery; average cost of production per acre; value

of the crops in the market; usual place of market; a list and the cost of the live stock usually required for cultivation of an average-sized farm, (giving size of the farms;) a list and the cost of implements and tools (including chains and harness) necessary on such a farm. Localities where gardens or small farms can be cultivated with profit without the use of horses, mules, or oxen.

Under the head of dairy or stock-raising should be stated the number of tons of hay cut per acre, and value per ton; number of tons usually fed per head to stock during the season or winter; the usual kind of grass; the breed of cattle in use; the expense and profit of raising stock; statistics of butter and cheese making. That a stranger may get an idea of the appearance of the country, mention might be made of the manner in which dwellings and farm-houses are built, of the highways and fences, the vehicles most in use, &c. Of course those localities should be specified and more particularly described where land is obtainable by immigrants, and the terms given on which it can be obtained; also, where there is a demand for labor; the kinds and wages; usual number of working-hours per day; the cost of subsistence and living.

Suitable notice should be given of any special industry in the State, its capacity for development, &c.; whether any particular branch of agriculture, fruit-raising, the dairy, stock-raising, manufactures, lumbering, mining, fisheries, &c. The means of transportation by water, by railroad; also, freight charges. Statistics of taxation, and the financial condition and prospects of the State. Statistics of education. A familiar account of county and local government. The time in which a foreigner acquires political rights; his prospects socially and civilly; what property exempt from attachment and execution; rights of women, single and married. Such are the heads of some of the matter which I should think the pamphlet ought to contain. Inducements should, of course, be held out as much to men of capital as to those without capital. It would be desirable that a neat map of the State should accompany it; one which, while showing the topography and the political boundaries, should by colors show the present and future capabilities of the soil. I cannot but repeat, that such a pamphlet ought to be prepared only by a master-hand; by one who combines the careful industry of the statistician with the ample knowledge and views of the statesman. When once done it will answer, with a few easy additions from time to time, for many years.

2. *Its circulation.*—The most economical and thorough way to circulate it abroad is, in my opinion, for the State to employ some trustworthy person in the country or countries whence it is desired to procure immigrants. Let him keep, in a few newspapers of largest circulation among the industrial classes, a brief advertisement setting forth the prominent inducements for immigrants to the State in question, and that, on request being sent to him, he will mail, free of expense, to any person, a pamphlet published by authority containing full particulars.

The expense of employing a person who will devote his whole time to the business need not exceed \$1,000 in any country in Europe, which would be more economical than sending an agent from the State. The expense of translating and printing the document would be inconsiderable. The cost of advertising and of postage could readily be estimated. The selection of a suitable person to circulate the pamphlet could be effected through the assistance of a diplomatic or consular officer of our Government, who could also, if it were desired, occasionally observe if the work was being faithfully performed.

Fruits of such an enterprise I should hardly suppose could be expected

the first or even second year unless immigration from the field of operations had, to some extent, already taken place. The second year persons might be expected to be seen looking about the State, in order to report to colonies of people who had sent them out from Europe for that purpose. The stream of immigration once having turned toward the State, it would not be difficult to keep it up.

The sympathy and kindness shown to immigrants on their arrival, by the native population, will go as far towards making them contented as the physical advantages which the State affords. After immigration should have got well under way it would probably be advisable to establish a sort of home, at a suitable place in the State, where the poorer class could rest for a few days and get directions as to the locality to which they should proceed. Under proper management, the mere cost of subsisting immigrants at such a home need not exceed 20 cents a day per person, which is about the average cost of subsisting soldiers in the United States Army at the principal military stations.

Immigrants having been secured to the State, there remains something to be done to *retain* them and to increase their usefulness. It is not to be denied that large numbers of the peasantry of Europe who emigrate to our country carry with them excessive ignorance and traditionary superstition, and that they too often settle down in the unskillful routine which was habitual in their native land.

In our own country we see and long have seen a tendency to emigrate from State to State. Among too many this is caused by poverty and a spirit of discontent.

Professor Johnston, the Scotch agriculturalist and chemist, a candid and capable observer, who made a tour through the United States a few years ago, tells us that the system of agriculture as then practiced in the United States was one of exhaustion of the soil; that it was "far behind that of the best parts of England and Scotland;" that "with our then knowledge and methods we should, year by year, become less and less able to export wheat."

The dairy editor of the Rural New Yorker, in an address last year before the American Dairymen's Association, said it was a source of infinite disadvantage that farmers, as a class, are not educated in a correct system of farm accounts; and that not one in twenty could tell the actual cost of any farm product. It is unnecessary, however, to go into such matters here. It is enough to know that, in the great work of development in our country, many improvements remain to be adopted. The essential conditions of success, as well in agriculture as other occupations, are skill, industry, and prudence. How shall these three qualifications be made habitual in the greatest number? This is a question of practical statesmanship, the solution of which largely devolves on State governments, and is of special interest to those which invite immigrants. I cannot refrain from expressing the opinion that one of the steps toward development, which ought not to be delayed, is the establishment in each State of compulsory education. It will be a help in the development of our physical resources and in the development of a sound national spirit.

Your obedient servant,

C. C. ANDREWS.

No. 387.

Mr. Andrews to Mr. Fish.

No. 132.]

LEGATION OF THE UNITED STATES,
Stockholm, November 16, 1871. (Received December 8.)

SIR: Referring to the No. 88 of September 25, of the Acting Secretary, authorizing the making of a translation of the constitutions of Sweden and Norway, I now have the honor to transmit herewith copies of such translations. That of Sweden embraces the act on the form of government, on representation, or the election and powers of the Diet, on the order of succession to the crown, and on the liberty of the press.

With the constitution of Norway is attached the act of union of the two kingdoms.

The translations have been made by competent persons. I have myself read and compared them with the original, in Swedish and Norwegian, and believe I can vouch for their correctness.

I also transmit a printed copy of each constitution in the original language. Both constitutions contain more ample guarantees of liberty than would perhaps be expected. The King, as a general thing, cannot remove from office without cause. The provisions for impeachment of high officials, the scrutiny of accounts by the legislature, as well as many other features, are striking.

I am, &c.,

C. C. ANDREWS.

[Inclosure 1.—Translation.]

THE CONSTITUTION OF SWEDEN.

- I. The form of government, (Sections 1 to 114.)
- II. Representation or election, and powers of the Diet, (Sections 1 to 82.)
- III. Order of succession to the crown, (Sections 1 to 9.)
- IV. On the liberty of the press, (Sections 1 to 5.)

THE CONSTITUTION OF SWEDEN.

THE LAW ON THE FORM OF GOVERNMENT.

Adopted by the estates of the kingdom and sanctioned by the King, June 6, 1809, at Stockholm; with the changes made therein by the King and the estates of the kingdom up to the Diet of 1865-'66, inclusive.

We, Charles, by the grace of God King of Sweden, of the Goths and Vandals, &c., &c., &c., heir of Norway, Duke of Schleswig-Holstein, of Stormarie and of Ditmarsen, Count of Oldenburg, and of Delmanhorst, &c., &c., make known: That having charged, with an unlimited and unreserved confidence, the estates of the kingdom to establish a new law on the form of government, which ought forever to secure the happiness and independence of the common country, we fulfill a duty dear to our heart and desired by us, in promulgating hereby this fundamental law, which, after mature deliberation, has been resolved upon and adopted unanimously by the estates of the kingdom now assembled, and has been delivered to us to-day in the hall of the throne, at the same time that, by a free and unanimous consent, these estates are come to offer us the crown and government of Sweden.

In yielding ourselves to their desire with the liveliest emotion, and a profound interest for the destinies of a nation which has given to us this never-to-be-forgotten proof of confidence and devotion, we have conceived a hope the surer in the success of our constant efforts to prepare the future happiness of the country, as, by the new law on the form of government, the reciprocal rights and duties, both for us and for our subjects, have been so clearly determined, that all, in maintaining the character sacred and the liberty of action of the royal power, assure to the Swedish people an equal liberty. Consequently, we do hereby accept, sanction, and confirm this law on the form of government, approved by the estates of the kingdom, such as follows, word for word:

We, the undersigned, the estates of the kingdom of Sweden, counts, bishops, barons,

orders of the nobility, of the clergy, of the burghers and peasants, now assembled in general Diet, in our name and in that of our absent fellow-citizens, make known that we, deputies of the Swedish nation, being returned in consequence of the change of government, newly established and unanimously approved by us, in the right of providing through ourselves the future amelioration of the condition of the country, the adoption of a new constitution, are convened and have resolved, in abrogating the different fundamental laws more or less in force up to this day, viz: the law on the form of government of August 21, 1772; the act of union and of security of the 21st of February and of the 3d of April, 1789; the law on representation, of January 21, 1801, as well as all the other acts, laws, regulations, statutes, and decrees of the same nature, which have been comprised under the name of fundamental laws; of establishing for the kingdom of Sweden, and the subordinate countries, the following law on the form of government, which, to commence from this day, shall be in force as the principal fundamental law of the kingdom; reserving to us equally the right to establish other fundamental laws enumerated in section 85 of the present law on the form of government, before the closing of this Diet, and in the manner prescribed in the said section.

SECTION 1. The kingdom of Sweden shall be governed by a King; and shall be hereditary kingdom, according to the order of succession established by the law on the succession to the throne.

SECTION 2. The King must always profess the pure evangelical doctrine, such as is established and explained by the unalterable Confession of Augsburg, and the decision of the synod of Upsala, of the year 1593.

ARTICLE 3. The King's Majesty shall be sacred and respected; his actions shall be subjected to no censure.

SECTION 4. The King has the right alone to govern the kingdom, in the manner prescribed by the present law on the form of government; he shall have, nevertheless, in cases indicated herein, recourse to the assistance, and shall take the advice of the council of state. To act in this council, the King shall choose and appoint members, lightened, experienced, upright, and generally esteemed, Swedes by birth, and professing the pure evangelical doctrine.

SECTION 5. The council of state shall be composed of ten members, who shall assist at the discussion of all affairs therein treated; a father and son, or two brothers, cannot be, at the same time, members of the council of state.

SECTION 6. Seven members of the council of state shall be chiefs of departments, viz:

The minister of state and of justice, for the department of justice; the minister of state and of foreign affairs, for the department of foreign affairs; a chief and counselor of state, reporter for the department of war, who shall be, at the same time, counselor of the King, for the affairs of military command concerning the army; a chief and counselor for the department of marine, who shall be, at the same time, counselor of the King, for the affairs of military command relating to the fleet; one for the civil (interior) department; one for the department of finance; one for the department of the church and of public instruction. The distribution of affairs between the departments shall be fixed by the King in a special regulation. Of the three counselors of state, with portfolios, two at least must have filled civil offices.

SECTION 7. All affairs relative to the government, with the exception of those mentioned in sections 11 and 15, must be reported before the King in the council of state and there be decided.

SECTION 8. In affairs which must be considered in the council of state, the King shall take his decision only in the presence of at least three counselors of state, besides the official reporter. All the members of the council of state, when not legally prevented, must be present in affairs of importance and of real weight, which, next to the order of the day which shall be sent to them in advance, are treated in the council of state and report themselves to the general administration of the kingdom. Such are regulations and projects relative to the establishment of new general ordinances; on the abrogation or the modification of those already in force; on the introduction of a new organization in the various branches of the administration, and others of the same nature.

SECTION 9. A protocol shall be formed of all affairs carried before the King in the council of state. The members of the council, for the time being, must absolutely express and declare their opinion, to be inserted in the protocol, and they are responsible for their counsels, as it is further stated in sections 106, 107; nevertheless, it is reserved to the King alone to decide. If ever, contrary to all expectation, it should happen that the decision of the King should be evidently contrary to the fundamental law of the kingdom, or to the code in force, the members of the council of state are required to make vigorous remonstrances against the decision. The one who shall not have consigned to the protocol an opposite opinion is as responsible for the decision as if he had counseled the King to take it.

SECTION 10. Before affairs are carried to the King, in the council of state, the

reporter must prepare them, demanding of competent authorities the necessary assistance.

SECTION 11. The King shall prepare and direct, as he shall judge most convenient, ministerial affairs, by which is understood those which concern the relations of the kingdom with foreign powers. It belongs to the minister of state and of foreign affairs to make a report of them to the King, in the presence of another member of the council of state. If the minister of state is absent, the report shall be presented by that one of the members of the council whom the King shall call in this case. When the King shall have heard the counsels of these functionaries, for which they are responsible, and which shall be inserted in the protocol, he shall render his decision in their presence; the protocol to be formed before, by the one to whom it shall have been specially committed. Of these, what the King shall judge useful, shall be communicated to the council of state, so that the council may also have some knowledge of this branch of the administration.

SECTION 12. The King has the right to conclude treaties and alliances with foreign powers, after having, conformably to the preceding section, heard upon these affairs the minister of state and of foreign affairs, and another member of the council of state, whom the King shall name on this occasion.

SECTION 13. If the King wishes to declare war or make peace, he shall assemble, in extra council of state, all the members of the council, make known to them the reasons and circumstances which ought to be taken into consideration on this occasion, and demand their advice, which they shall each give separately, to be consigned to the protocol, under the responsibility determined in section 107. That done, the King shall have the power to form and execute the decision which he shall judge most useful to the kingdom.

SECTION 14. The King has the command-in-chief of the forces of the kingdom by land and sea.

SECTION 15. The affairs of military command, by which are understood those that the King immediately directs in the quality of commander-in-chief of the land and naval forces, when the King himself governs the kingdom, shall be decided by him in the presence of the one, of the chiefs of the military departments in the department to which the affair belongs. At the time of the preparation of these affairs, it is the duty of this one to express his opinion on the enterprises of the King, and, if it does not agree with the decision of the King, to commit his objections and his counsels to a protocol, of which the King shall certify the exactitude by placing thereto his high signature. If the said official finds that these enterprises are of a dangerous tendency, or that they are based on uncertain or insufficient means of execution, he shall recommend further to the King to reassemble for this purpose a council of war, composed of two or more superior officers at the time being; the King, nevertheless, unrestrained by this recommendation, and when it is accepted by the opinion of the council of war committed to the protocol, will make that regard which seems good to him.

SECTION 16. The King must maintain and favor justice and truth, prevent and defend against violence and injustice, neither wrong nor permit wrong to any one in his life, honor, personal liberty or interests, who is not legally convicted and condemned. The King shall not interpose between the individual and the court of justice.

SECTION 17. The royal prerogative of high jurisdiction shall be confided to men versed in jurisprudence, named by the King, the number of whom shall not be less than twelve nor more than eighteen; these must have given proofs of knowledge, experience, and probity in the exercise of these offices. They shall bear the titles of councilors of justice, and shall constitute the supreme tribunal of the King. Their number must not exceed twelve, unless the King and Diet decide in the law prescribed in section 87, paragraph 1, that the supreme tribunal ought to be divided into sections; in this case the number of councilors of justice, in the limits fixed above, as well as the distribution of affairs between the sections, shall be regulated in the same manner.

SECTION 18. It belongs, also, to this supreme tribunal to pronounce, in the name of the King, on the demand made by a party, who has let pass the time of appeal from a judgment, or on the exercise in justice, of a right that the law confers upon him, in order to be relieved from the forfeiture of delay.

SECTION 19. If tribunals and officials address to the King a demand in explanation of the true meaning of the law, in cases which are in the province of the judges, it shall belong equally to the supreme tribunal to give the explanation thus demanded.

SECTION 20. Affairs which, after having been judged by military tribunals, are submitted to the examination of the King, shall be, in time of peace, carried before the supreme tribunal, and decided by it. Two military officers of superior rank, chosen by the King and appointed for this purpose, and who shall be unexceptionable and responsible like the other judges, and shall enjoy no special favor, must take part in the deliberations on these affairs in the supreme tribunal as well as at the judgment; but the number of judges cannot exceed eight. In time of war, such cases shall be proceeded with according to the articles of war.

SECTION 21. The King has two voices in affairs, to the relation and decision of which he deems it proper to assist in the supreme tribunal. Every question on the interpretation of the law shall be reported to the King, and his voices shall be counted, even while he shall have taken no part in the deliberations of the supreme tribunal.

SECTION 22. In the supreme tribunal, affairs of the least importance must be examined and decided by five members, and even by four, if the four agree on the decision. In affairs of greater importance, the number of seven members, at least, is necessary in order that a judgment can be rendered. More than eight members at a time can never take part in the examination of a suit.

SECTION 23. All the decisions of the supreme tribunal shall be rendered in the name of the King, and provided with his high signature, or with his seal.

SECTION 24. Judicial affairs shall be prepared in the King's "inferior justice revision" for report to, and decision of, the supreme tribunal.

SECTION 25. The King has the right, in criminal cases, to pardon, to commute the sentence of death, and to restore honor as well as goods confiscated. Nevertheless, the supreme tribunal shall be heard on such matters, and the King shall take its decision in council of state. It shall be optional afterward with the guilty party to accept the pardon granted by the King, or submit to the punishment to which he shall have been condemned.

SECTION 26. When judicial affairs are reported in the council of state, there shall be present, besides the minister of state, two members of the supreme tribunal, who shall be obliged to commit their opinion to the protocol, as prescribed in section 9.

SECTION 27. The King shall chose for his attorney general a man versed in jurisprudence, capable and impartial, and who shall have been employed in judicial duties. In his capacity of attorney general of the King, it belongs to him, principally, to exercise, either himself, or by the intermediate fiscal attorneys subordinate to him, or the public ministry, in cases which concern the public safety and the rights of the state, as well as of exercising, in the name of the King, watchfulness over the administration of justice, and in this capacity, of prosecuting judges and officials for offenses committed by them.

SECTION 28. The King has the right to name and constitute in the council of state men born Swedes to all the offices and employments, inferior and superior, in the kingdom, when they are of the list of those for whom commissions have been signed by the King; nevertheless, those to whom it belongs, according to the custom observed up to this time, of proposing candidates, ought before to have transmitted to the King a list of presentation. The King can, notwithstanding, after having heard competent authorities on their proposition, call and name foreigners of distinguished merit, and professing the pure evangelical doctrine, to the employments of professors of universities—the employment of minister of theology excepted—to the chair of professor, and to other employments of all the other institutions for sciences, trades, or fine arts, as well as the profession of medicine. The King can, at the same time, employ foreigners of rare talents in military offices, those of commandants of fortresses excepted. In all nominations, the King shall have regard only to the merit and talents of candidates and not to their birth. There shall be named to the civil offices in the kingdom, as to those of judges, only persons professing the pure evangelical faith; nevertheless, shall be excepted the offices of professor and others in the institutions for the trades and fine arts, and those of medicine, to which even persons who do not profess the pure evangelical faith can be named. The chief of each department must report and expedite everything which concerns nominations, vacancies, and dismissals for the offices in the administrations which belong to his department.

2. By naturalization, the King has the right of granting the privileges of naturalization to foreigners, in the order and with the conditions which are prescribed by a special law established in the manner stipulated in section 87, paragraph 1. The foreigners thus naturalized shall enjoy the same rights and privileges as if he was born a Swede, although he cannot be named member of the council of state.

SECTION 29. The archbishop and bishops shall be elected in the manner practiced up to this time, and the King shall name for these places one of the three candidates proposed.

SECTION 30. The King shall name the royal curates, according to the custom observed up to the present time. As to the said consistorial curates, the parishes shall be sustained in their right of election.

SECTION 31. In the cities, the inhabitants called to take part at the election of members to the Diet shall have the right to propose for the places of burgomaster three competent men, of whom the King shall choose one. The proceedings shall be the same for the places of councilors and secretary of the magistrate, in the city of Stockholm.

SECTION 32. Envoys near foreign powers, as well as the personnel of the legations, shall be appointed by the King in the presence of the minister of state and of foreign affairs, and another member of the council of state, whom the King shall designate.

SECTION 33. When employments, for which candidates have been proposed, must be

filled by the king, the members of the council of state shall express their opinion on the talents and merit of the aspirants. They have, at the same time, the right to make humble representations against the nominations of the King to other services and offices.

SECTION 34. The ministers of state are clothed with the highest dignity of the kingdom; the councilors of state rank next. The ministers of state or the councilors of state cannot, at the same time, perform other duties, nor draw emoluments from them. The councilors of justice cannot, at the same time, be invested with other duties nor exercise them.

SECTION 35. The members of the council of state, the presidents and chiefs of colleges, or other administrations established in their place, the attorney general of the King, the chiefs of the administration of customs and of posts, the secretaries-in-chief to the departments of state, the grand governor, and the master of the police of the capital, the governors of the provinces, field marshals, generals and admirals of every rank, general aids-de-camp, first aids-de-camp, aids-de-camp of the staffs of armies, commandants of fortresses, colonels of regiments, second chiefs of regiments of horse and foot guards and corps for the escort of the King, as well as the chiefs of all other corps and military battalions, having each a separate organization, the chiefs of artillery, fortifications, engineering, and hydrography, ministers, envoys, and commercial agents near foreign powers, as well as the officials of the minister of foreign affairs and the personnel of the legations, have posts of confidence, of which the King can deprive them when he judges it useful for the service of the state. The King shall, nevertheless, communicate these resolutions to the council of state, whose members are allowed to make humble representations on this subject, if they believe they have sufficient reasons for so doing.

SECTION 36. Those who occupy judicial offices, as well superior as inferior, also all other officials and employes not mentioned in the preceding section, cannot, except by means of scrutiny and judgment, be removed by the King or promised other offices, unless on their own demand.

SECTION 37. The King has the right to confer nobility on persons who, by their fidelity, courage, virtue, learning, and zealous services, shall have particularly merited favor from the King and kingdom. The King can also, in reward for great and eminent services, raise the nobles to the rank of baron and barons to that of count. The nobility and the titles of baron and count, granted henceforth, can descend only to that one who shall have been a noble, or shall have received the title, and after his death, in direct descent to the eldest of his male descendants of the eldest branch, and at the extinction of this branch, to the male descendant of the following eldest branch, the nearest to the head of the family, and so on. If by inheritance, nobility passes to some one who is himself already a noble, or who has become so by another more immediate inheritance, his nobility shall cease with him, unless it is not of superior rank, in which case the nobility of the head of the family shall pass to the nearest branch; if that no longer exists, the line shall be extinct. If any one has been deprived of his nobility, it shall pass to the one who, according to the principles herein established, is the next successor.

The regulating of the order of nobility which the King and the nobility decide upon together, prescribe the manner of the assembling of the nobility, to decide upon its common affairs.

SECTION 38. All acts and orders emanating from the King, excepting those relative to affairs of military command, must, to be valid, be provided with the signature of the King, and countersigned by a competent reporter, who shall be responsible for their conformity to the protocol. The chiefs of departments send to whom they belong all instructions and observations relative to the execution of resolutions taken. If the reporter finds any resolution of the King contrary to the law on the form of government, he shall make representations on this subject in the council of state. If the King, notwithstanding, insists that this resolution shall be taken, the reporter shall have the right and duty of refusing the countersign, and he must, in consequence, give up his office, which he cannot take again before the Diet have examined and approved of his conduct. Meanwhile he shall be sustained in the enjoyment of his salary, and other revenues attached to the office.

SECTION 39. If the king wishes to undertake a journey outside of Sweden and Norway, he must communicate his design to the council of state *in pleno*, and take its advice on this subject, as stated in section 9. If, afterward, the King decides upon this journey, and puts it into execution, he cannot occupy himself with the government of the kingdom, neither exercise the royal power so long as he remains outside the kingdoms. During the absence of the King, the affairs of state shall be governed, in his name, by the prince, heir-presumptive to the throne, if he has attained the age prescribed in section 41. He shall govern in the quality of regent, with all the power and all the royal authority, according to the present law on the form of government; nevertheless, he cannot grant letters of nobility, neither titles of count or baron, nor confer decorations; at the same time, all vacant posts of trust can be filled only provisionally by

those whom the regent shall appoint. If there is no prince having the right of succession to the throne, or if the heir-presumptive have not attained the age of majority established in section 41, or if, by sickness or absence from Sweden and Norway, he is prevented from taking the reins of government, the council of state shall govern with the same power as the regent.

In section 91 shall be stipulated what shall be done in case the King remains out of the kingdom more than twelve months.

SECTION 40. If the King becomes so ill as not to be able to direct the affairs of the government, proceedings shall be as prescribed in the preceding section.

SECTION 41. The King shall be of full age at eighteen years. He shall be at the same time heir-presumptive to the throne. If the King decease before the heir to the throne has attained that age, the council of state shall govern in the name of the King, according to section 39, until the Diet shall be assembled, and tutors appointed by it shall have taken the reins of government; the council of state must conform itself absolutely to the present law on the form of government.

SECTION 42. If the misfortune occurs, that all the dynasty to which the right of succession to the kingdom is reserved is extinct, in the male line, the council of state shall govern, equally with the powers established in section 39, until the Diet shall be able to assemble and elect a new dynasty, and the King elected may take the reins of government.

In all cases where, according to the present section, and the three which precede, the government is exercised by the council of state, all its members must be present and vote in the council.

SECTION 43. If the King goes to war, or makes a journey at a distance from the kingdom, or into Norway, he shall appoint three members of the council of state, under the presidency of that one of the princes of his family, or of one of the members of the council of state, whom he shall choose, to administer the government in affairs which he shall assign to them. Concerning the affairs which the King, in this case, shall decide himself, they shall be proceeded with as prescribed in section 8.

What has been stipulated as regards the King shall be equally applicable to the regent when he administers the government of the kingdom.

SECTION 44. No prince of the royal family, prince royal, prince hereditary, or other, can marry without the knowledge and authorization of the King. Marriage made without this authorization incurs privation of all right of succession to the throne, as well for the one who has contracted it as for his children and descendants.

SECTION 45. Neither the prince royal, princes hereditary, nor other princes of the royal house, shall have endowments or civil office. The title of duke or prince of a duchy or principality can, however, be conferred upon them without authority over the provinces whose name they bear.

SECTION 46. The country shall remain divided into governments, directed by the existing provincial administrations. There shall be, hereafter, no governor general in the kingdom.

SECTION 47. The hof-rätter, or highest inferior tribunal, and all the other tribunals of the kingdom, shall judge, according to the law and regulations having the force of law; the administrative colleges of the kingdom, provincial administrations, and all corps of administration, as well as superior and inferior officials, must fulfill their duties and manage affairs of their province, and aid each other in their execution, as well as in everything which the service of the King exacts from them, all becoming responsible to the King, in the order prescribed by the law, for what shall be neglected by them or treated in an illegal manner.

SECTION 48. The court of the King is under his particular direction, and on this account he shall have the right to take such measures as shall seem to him good. For all the offices of his court, the King shall appoint and remove whoever shall please him.

SECTION 49. The Diet represents the Swedish people. The rights and duties which, according to the laws in force, belong to the general estates of the kingdom, shall revert henceforth to the Diet. It is divided into two chambers, whose members are elected in the order prescribed by the law on representation. The chambers have, in all questions, the same competency and the same authority.

For ordinary sessions, the Diet must assemble, in virtue of the present fundamental law, on the fifteenth of January of each year, or the day following if this date falls on a holiday; nevertheless, the King can, in the interval of the ordinary sessions, convocate an extra session.

In extra session can be treated only affairs for which the Diet has been convoked, or those, beside, which have been submitted by the King, as also all which relates necessarily to the said affairs.

SECTION 50. The Diet shall assemble in the capital of the kingdom, except in cases where the approach of an enemy, plague, or other preventives of the same weight, shall render it impossible or dangerous for its liberty and its safety. In these cases the King, after having consulted with the delegated directors of the bank and the office of

the public debt, must designate and announce officially another place of meeting for the Diet.

SECTION 51. In cases where the Diet shall be convoked by the King, the regent, or the council of state, the time of meeting shall be fixed after the twentieth and before the thirtieth day, to commence from the one on which the meeting shall have been published in the churches of the capital.

SECTION 52. The presidents and vice-presidents of the chamber shall be appointed by the King.

SECTION 53. The ordinary Diet shall form, for the preparation of affairs, the following committees: a committee of the constitution, to make and receive propositions, relative to modifications to be introduced in the fundamental laws, and to give its advice on them to the Diet, as well as to examine the protocols of the council of state; a committee of finance, to examine and set forth, in a report to the Diet, the condition, administration, and necessities of the treasury, and of the office of the public debt; a committee of taxes, to treat the questions relative to them; a committee of the bank, to control the administration and condition of the bank, and to give instructions relative to its administration; and a committee of legislation, to commit to writing the projects of the amelioration of the civil, criminal, and ecclesiastical laws, which are sent to it by the chambers. In extra sessions there shall be formed only the number of committees necessary for the preparation of affairs which are submitted to them.

SECTION 54. If the King demands of the Diet special delegates to confer with him on affairs which he judges a duty to be kept secret, these delegates shall be elected by the chambers; nevertheless, they shall not have the power to take decisions, but only give to the King their advice on the affairs which he shall have communicated to them. If the King exacts it, they must swear secrecy.

SECTION 55. The Diet, the chambers, neither any committee of the Diet, can discuss or decide any affair in the presence of the King.

SECTION 56. The law on representation indicates in what manner the propositions of the King shall be treated and decided, as well as the motions made by the deputies in the chambers.

SECTION 57. The right immemorial of the Swedish people to tax themselves is managed by the Diet alone.

The communal laws, which are established by the King and the Diet in common, prescribe in what manner the communes can tax themselves for their particular needs.

SECTION 58. At each ordinary Diet, the King shall cause to be presented a view of the financial condition of the state in all its parts, receipts and expenses, credits and debts. If, in consequence of treaties concluded with foreign powers, certain sums become payable to the kingdom, there shall be an account of it rendered in the same manner.

SECTION 59. The King shall submit to the Diet at the same time as the view of the condition and financial needs of the state, a project relative to the manner of providing for taxes, under the necessities of the state demand outside of ordinary receipts.

SECTION 60. Under the denomination of taxes are comprised the custom-house duties, excise and postal duties, stamp duties on domestic brandy, and all personal taxes which each Diet would impose. Any duty payable to the state, of whatever nature and denomination it may be—the custom-house duties on the importation and exportation of grain excepted—can be increased without the consent of the Diet. The King can no longer farm out the receipts of the state, neither establish monopolies, either for his profit or the state's, neither for individuals nor corporations.

SECTION 61. All imposts voted by the Diet under the titles mentioned in the preceding section shall be received till the end of the year, in the course of which the Diet shall have again fixed the taxes.

SECTION 62. When the financial needs of the state shall have been verified by the Diet, it shall depend upon it to vote a contribution which shall be proportioned to it, as well as to fix the different sums, which on this contribution shall be assigned to the various services, and to enter these sums on the budget under general determined titles.

SECTION 63. Besides, there shall be created, for unforeseen cases, two separate and sufficient funds, which shall be furnished by the office of the public debt, (*riksgäld-konteret*.) The first shall be transferable, if the King, after having heard the advice of all the council of state, judges it is indispensably necessary to make an appeal for it, for the defense of the kingdom, or any other object of major importance; the second can be employed by the King, in case of war, after having heard the members of the council of state *in pleno*, and convoked the Diet. The assignment for this sum, sealed by the Diet, cannot be opened, neither the sum paid by the delegated directors of the office of the public debt, before the meeting of the Diet shall have been duly published in the churches of the capital.

SECTION 64. The ordinary resources and receipts of the kingdom, as well as the sums which, conformably to what has been written above, are appropriated by the Diet, on account of the state, under the denominations of extraordinary contributions or imposts, shall be at the disposition of the King, in order to provide for the needs

which have been recognized by the Diet, and conformably to the expenses incurred by the state.

SECTION 65. The said revenues cannot be employed otherwise than has been prescribed; the members of the council of state being responsible for any misappropriation of it, without committing to the protocol their observations, and alleging what the Diet shall have ordered in such a matter.

SECTION 66. The office of the public debt shall remain under the direction, control, and administration of the Diet; and while it guarantees the payment of the debt, administered by the office, the Diet, after having duly examined the condition and financial necessities of the office, shall furnish by a special contribution the necessary means for the payment of the debt, principal and interest, so that the credit of the country may be duly maintained and guarded.

SECTION 67. The King's deputy in the office of the public debt shall assist at meetings of the delegated directors only when these shall have expressed the desire to confer with him.

SECTION 68. Sums belonging to, or appropriated to the service of the public debt, can be removed on no other pretext or condition whatever, neither employed for other purposes, than those determined by the Diet. All orders tending to that shall be null.

SECTION 69. When propositions of the committee of finance are submitted to the Diet, concerning either the regulation of the expenses of the state, or of the amount of taxes proportioned to them, whether expenses or receipts of the office of the public debt, or bases for fixing the direction and administration of this office, the proceedings shall be according to the prescriptions of the law on representation relative to the manner of proceeding as regards the propositions of the said committee. If the chambers take different resolutions, which cannot be harmonized, the chambers shall vote separately on the resolutions already taken by each of them; and the opinion which has the greatest number in counting the votes of the two chambers, shall have the force of the resolution of the Diet.

SECTION 70. When, in questions concerning the direction and administration, the receipts and expenses of the bank of the kingdom, the chambers take different resolutions, they shall vote separately, as is said in the preceding section.

SECTION 71. The proceedings shall be the same, if the chambers do not agree concerning the bases of a tax, the manner of applying them, or the distribution of the tax for payment.

SECTION 72. The bank of the kingdom shall remain under the guarantee and control of the Diet in such a manner that it can be administered by the delegated directors named by the chambers, without the intervention of any one, and according to the regulations, statutes, and instructions given, or to be given, by the Diet. The Diet alone has the right to put in circulation, through the bank, notes which must be recognized as the money of the kingdom. These notes shall be paid, according to their tenor, by the bank, at sight and in coin.

SECTION 73. No new impost, recruiting of soldiers, or demand for money or effects, can henceforth be ordered, made, neither exacted, except with the wishes and consent of the Diet, and in the order prescribed above.

SECTION 74. If a war breaks out, the King can exact no other contributions of a nature for making war, than subsistence, which a country can be required to contribute for the support of troops during their march, when the various localities where this march takes place are not in a state to furnish the necessary supplies. Those who are affected by this contribution shall, however, be reimbursed forthwith in money by the state, at a price above half the price of the subsistence. This contribution can be exacted neither for troops cantoned in a locality, neither those which execute a movement in time of war, the troops in this case being before provisioned from the storehouses or depots established for this purpose.

SECTION 75. The annual market price shall be decided by deputies elected in the order specially prescribed by the Diet. What these deputies shall have decided in this regard shall serve as a rule, unless a modification shall have been demanded and accorded in the desired form.

SECTION 76. The King cannot, without the consent of the Diet, make loans neither in nor out of the country, neither charge the state with new debts.

SECTION 77. The domains and farms of the state, as well as their dependencies and appurtenances, forests, parks, warrens, and meadows of the state, meadows used for the support of the King's equipage, salmon fisheries, and other fisheries of the state, as well as all its other property, can neither be sold nor mortgaged, nor by donation or otherwise transferred by the King, without the consent of the Diet. These properties shall be administered according to the bases determined by the Diet, notwithstanding persons and communities who now, conformably to the ordinances in force up to this day, are in the possession of such property or have the profits of it, shall enjoy, on this account, the rights which legally belong to them. In the same manner cleared or arable lands in the forests of the state can, in the usual manner, and according to the

actual ordinances, or those to come, be sold, on condition that the purchaser continues to pay rents to the state.

SECTION 78. No part of the kingdom can be transferred from it by sale, mortgage donation, or similar means.

SECTION 79. No modification of the standard of coin or of weights, whether to increase or reduce them, can be made in the money of the kingdom, without the consent of the Diet. The right of the King to coin money is not thereby impaired.

SECTION 80. The obligation to maintain troops of cavalry and infantry, as well as marines, by "*rotering*" and "*indelning*," shall continue in country and city, according to established contracts and "*indelning system*," of which the principal bases shall remain intact, until the King and Diet, together, judge it necessary to make modifications therein. No new "*rotering*" can be made, neither the one existing be increased, unless the King and Diet agree to it.

SECTION 81. The present law on the form of government, and the other fundamental laws of the kingdom, can be modified or abrogated only by a resolution of the King and two ordinary Diets. The resolutions of the Diet in regard to propositions of the King concerning the fundamental laws, shall be made known to him in the manner prescribed by the law on representation. If by a resolution of the Diet a motion made by it relative to the fundamental laws has been approved, this resolution shall be submitted to the King, who must, before the closing of the Diet, take the advice of all the members of the council of state on this subject, and make known to the Diet, in the hall of the throne, his assent, or the reasons why the resolutions shall not be sanctioned.

SECTION 82. That which, conformably to the order established, shall have been decided upon by the Diet, with regard to introducing modifications into the fundamental laws, and shall have been approved by the King, or that which shall have been proposed by the King and accepted by the Diet, shall have the force of fundamental law.

SECTION 83. No other interpretation of the fundamental laws can be valid, for the future, than the one which shall have been adopted in the manner prescribed to modify these same laws.

SECTION 84. In each particular case the fundamental laws shall be applied according to their literal sense.

SECTION 85. As fundamental laws, shall be considered the present law on the form of government, as well as the laws on representation, on the order of succession to the throne, and on the liberty of the press, which are decided upon by the King and Diet, in common, conformably to the principles established in the present law on the form of government.

SECTION 86. By the liberty of the press is understood the right of all Swedes to publish writings without previous obstacles, on the part of public authority, of being prosecuted for their contents, only before competent tribunals, and of being punished for the said writings, only inasmuch as the tenor of them is evidently contrary to formal, established law; to guarantee the public tranquillity, without placing obstacles in the way of the propagation of knowledge. All the acts and protocols, no matter what affair concerning, excepting the protocols of the council of state, and those brought before the King in ministerial affairs, and those of military command, can unconditionally be published through the press. The protocols and acts of the bank, and of the office of the public debt, concerning affairs which must be kept secret, cannot be published.

SECTION 87. The Diet, in concert with the King, has the power to establish laws, civil and criminal, as well as to modify and abrogate such laws already established. The King cannot, without the consent of the Diet, neither the Diet without that of the King, make new laws, neither abrogate old ones. Motions on this subject can be made in the chambers, and the Diet shall decide them, after having taken the advice of the committee on legislation.

If the Diet pronounces itself in favor of a new law, or of the modification or abrogation of an old law, the project relative to it shall be submitted to the King, who shall take the advice of the council of state and the supreme tribunal, and, after having formed his resolution, shall make known to the Diet his consent to the demand made by it, or the reasons for his refusal to agree to it. If the King is prevented from forming or making known his resolution before the closing of the Diet, he shall be free to approve the project, such as is conceived, word for word, and to proclaim it, before the opening of the following Diet. If this has not taken place, the project is rejected; and in this case the King shall make known to the Diet in the next session the reasons which prevented the approbation of the project. If the King judges proper to present to the Diet a project of law, he shall demand on this subject the advice of the council of state and of the supreme tribunal, and shall communicate his proposition, as well as this advice, to the Diet, which shall proceed afterward in the order prescribed by the law on representation.

2. The Diet, in concert with the King, shall have equally the power to establish, modify, or abrogate ecclesiastical laws; nevertheless, in these cases, the assent of the

general synod is also necessary. The advice of the council of state and of the supreme tribunal shall be taken on projects relative to these laws, as is said in paragraph 1, and shall be sent to the Diet at the same time with the proposition of the King, if the initiative comes from him. If a project of law of this nature has not been promulgated as a law before the opening of the Diet which follows the one which has presented or approved of the project, it shall be accounted rejected; and in this case the King shall make known to the Diet the reasons why the project could not be accepted.

SECTION 88. As regards the interpretations of civil, criminal, and ecclesiastical laws, the proceedings shall be the same as for a new law of this nature. The interpretations of the true meaning of the law which the King, through the supreme tribunal, and in the interval of the Diets, shall have given in reply to the demands which have been made, can be disapproved by the Diet following; and even those relative to the ecclesiastical laws can be disapproved by the first general synod which shall be held after the said interpretation shall have been given. The construction thus disapproved shall be no longer valid, and can neither be observed nor cited by the tribunals.

SECTION 89. Motions in the chambers can be made having for an object the modifying, interpreting, or abolishing of laws and ordinances touching the general economy of the kingdom, as well as proposing new laws on this subject, or making motions relative to the principles on which public institutions of every sort can be organized. Nevertheless, in these matters, the resolutions which the Diet can adopt shall be limited to making representations to the King and expressing wishes to him; to which, the council of state being heard, he shall have regard, as he finds it useful to the kingdom. If the King wishes to charge the Diet with deciding in concert with him a question relating to the general administration of the kingdom, the proceedings shall be according to the stipulations of section 87, paragraph 1, relative to the projects of law.

SECTION 90. Questions relative to the nominations and removal of public officials; to decisions, resolutions, and decrees of executive and judicial powers; to the interests of individuals or corporations; to the execution of a law or regulation; or to the organization of an institution, can be submitted to the deliberations and examinations of the Diet, of its chambers or committees, only in cases and in the manner prescribed by the fundamental laws, interpreted according to their literal sense.

SECTION 91. In case mentioned in section 39, where the King, after having undertaken a journey, shall remain more than twelve months outside of the kingdom, the regent, or the council of state, if it governs, shall convoke the Diet by official notification, and shall cause the convocation to be published in the churches of the capital within fifteen days after the above-mentioned time, and in the other parts of the kingdom as soon as can be done. If the King, after having been informed of it, does not return to the kingdom, the Diet shall take such resolutions on the subject of the government of the kingdom as it shall deem best.

SECTION 92. The proceedings shall be the same if the King is ill to such an extent that, for more than twelve months, he may not occupy himself with the affairs of the government.

SECTION 93. In case of the King's decease, and if the successor to the throne is still a minor, the council of state shall convoke the Diet. This convocation shall be published within fifteen days after the King's decease, in the churches of the capital, and in the other parts of the kingdom. The Diet, without being bound by any testament of the late King touching the government, shall have the right to designate one, three, or five guardians to administer the government in his name, and conformably to the present fundamental law, until the majority of the King.

SECTION 94. If the misfortune arrives that the dynasty, to which the right of succession to the throne is reserved, becomes extinct in the male line, the council of state shall convoke the Diet within the time after the death of the King fixed in the preceding section. The Diet shall then elect a new dynasty, preserving the present law on the form of government.

SECTION 95. If, contrary to expectation, the regent or the council of state, in cases mentioned in sections 91, 93, and 94, shall neglect to convoke the Diet immediately, it shall be the absolute duty of the tribunal of the highest inferior court of the kingdom to give notice of it through official publications, in order that the Diet may assemble to sustain and defend its rights and those of the kingdom. This Diet shall assemble the thirtieth day, at the latest, after the one on which the regent or the council of state ought to have published the convocation in the churches of the capital.

SECTION 96. Each ordinary Diet shall designate a man known as being versed in jurisprudence and for his perfect honor, who, in the capacity of attorney general of the Diet, and according to instructions given by it, shall be charged with inspecting the application of the laws, by the judges and officials, and to prosecute, according to legal forms before competent tribunals, those who, in the exercise of their duties, shall have by favor, partiality, or other motive, committed illegalities, or neglected properly to perform their duties. Nevertheless, he shall be subjected in all respects to the same responsibility and shall be held to the same duties that the code in force prescribes with regard to public accusers.

SECTION 97. This attorney general of the Diet, who, as long as he fulfills his duties, is in all respects the equal of the King's attorney general, shall be elected in the manner prescribed by the law on representation; there shall be at the same time a person elected, possessing the qualities required of the said official, to succeed this one, in case he shall decease before the following ordinary Diet shall have proceeded to a new election, and to replace him if he becomes seriously ill, or shall be otherwise legally incapacitated.

SECTION 98. In cases where, while the Diet is assembled, the attorney general of the Diet shall resign his office, or die, the Diet shall immediately put in his place the person who shall have been designated for his successor. If during the session the successor designated for the attorney general of the Diet resigns his office, or if he enters on the duties of attorney general for the Diet, or if he dies, the proceedings shall be as above for the election of another person fulfilling the desired conditions. If one of the aforesaid cases presents itself in the interval of the sessions, the right of the Diet as regards this shall be exercised by the deputies of the bank and the office of the public debt.

SECTION 99. The attorney general of the Diet can, when he shall judge it necessary, be present at the deliberations and decisions of the supreme tribunal, of the inferior justice revision of the tribunals of the second instance, of administrative colleges or administrations established in their place, and of all inferior tribunals; nevertheless, without having the right to express his opinion, he shall have equally the right to take knowledge of the protocols and other acts of all tribunals, administrative colleges, and other public administrations. In general, all officials of the King are required to lend assistance in the execution of the orders of the attorney general of the Diet, and the fiscal attorneys must assist him, on his demand, in the prosecution.

SECTION 100. The attorney general of the Diet must present to each ordinary Diet a report on the manner in which he has fulfilled his office; to expose therein the situation of the judicial administration of the kingdom; to point out the faults existing in the laws and ordinances, and propose ameliorations therein.

SECTION 101. If, contrary to expectations, it should happen that all the members of the supreme tribunal, or that one or several of these members have, through interest, bad faith, or negligence, judged against right and reason to the extent that, contrary to the just interpretation of the law, as well as the evidence of facts, an individual shall have been deprived of, or been exposed to the loss of, life, personal liberty, honor, and fortune, the attorney general of the Diet shall be required and the attorney general of the King shall have the right to prosecute the wrong-doer before the tribunal indicated below, and to inflict upon him the sentence imposed by the laws of the kingdom.

SECTION 102. This tribunal, called court of the kingdom, shall be composed, in such a case, of the president of the tribunal of the second instance, (Svea Hofrätt,) at Stockholm, who shall occupy the chair; presidents of all the administrative colleges, the oldest four members of the council of state; the commander-in-chief of the troops constituting the garrison of the capital; the principal commandant present of the squadron of the fleet stationed in the port of the capital; the oldest two members of the tribunal of the second instance at Stockholm, and the oldest member of each of the administrative colleges of the kingdom. If the attorney general of the King or of the Diet believes it a duty to prosecute before the court of the kingdom, all the members, or one in particular of the supreme tribunal, he shall demand of the president of the tribunal of the second instance, at Stockholm, in his capacity as president of the court of the kingdom, to issue a legal citation to the one or ones who ought to be prosecuted. The president of the tribunal of the second instance shall afterward take measures for the convocation of the court of the kingdom, and must cause the citation to be served and the matter to be prosecuted further according to legal forms. If, contrary to expectation, he shall neglect to take these measures, or if one of the other officials designated above shall refuse to take part in the court of the kingdom, he shall incur the punishment established by law against the one who neglects voluntarily the official duties incumbent upon him.

If one or several of the members of the court of the kingdom are lawfully prevented or excusable by the law, the court shall be competent, nevertheless, on condition of being composed of twelve persons.

If the president of the tribunal of the second instance, at Stockholm, is lawfully prevented or excusable, the oldest president on duty will take his place. The trial finished and judgment rendered according to law, the court must publicly declare it. No one can have the power of annulling the arrest made by the court. The right to grant pardon, nevertheless, is reserved to the King, but this pardon can, nevertheless, not extend to the restoring of the condemned to the service of the state.

SECTION 103. The ordinary Diet shall appoint every three years, in the manner prescribed by the law on representation, a commission authorized to judge if the members of the supreme tribunal merit to retain their important offices, or if certain ones among them, unless it can be proved they have committed faults or crimes—cases

which are provided for in the preceding section—must, nevertheless, be considered as undeserving the right to exercise royal justice. If this commission, after having voted in the order prescribed by the law on representation, decides that one or several of the members of the supreme tribunal shall be declared deprived of the confidence of the Diet, knowledge of it shall be given to the King, who must remove the member or members in question from office. Nevertheless, the King shall grant an annual pension, which shall be the half of the salary.

SECTION 104. The Diet cannot enter into any detailed examination of the decisions of the supreme tribunal, neither any general deliberation take place on this subject in the commission.

SECTION 105. At each ordinary Diet, the committee on the constitution shall have the right to require the protocols of the council of state, with the exception of those which concern ministerial affairs and those of military command, which can be exacted only as far as they relate to affairs generally known and indicated by the committee.

SECTION 106. If the committee finds that it appears from these protocols that a member of the council of state, or a reporter to this deputy, or the official who has counseled the King in an affair of military command, has evidently acted contrary to the fundamental law, or contrary to the code in force, or that he has consented to an infraction of these laws, or neglected to make representations against such an infraction, or that he has caused and favored it, in concealing designedly some knowledge; or that the reporter has neglected, in cases anticipated in section 38 of the present law on the form of government, to refuse his countersign to the resolution of the King, the committee on the constitution must cause the guilty one to be prosecuted by the attorney general of the Diet before the court of the kingdom, or retain in these cases the oldest four members of the supreme tribunal, in place of the members of the council of state. The remainder shall be proceeded with according to sections 101 and 102, relative to the actions brought against the supreme tribunal. If the members of the council of state, or the counselors of the King for affairs of military command, are found guilty in the manner indicated above, the court of the kingdom shall judge them according to the code in force and the special regulation which the King and the Diet shall establish to fix the responsibility in such a case.

SECTION 107. If the committee of the constitution finds that all the members of the council of state, or that one or several of these members, in giving their advice on measures for the public good, have not regarded the true interests of the kingdom, or that a reporter has not fulfilled the duties of his post of trust with impartiality, zeal, ability, and activity, the committee shall have the right to communicate it to the Diet, which, if it judges that the interest of the kingdom demands it, can, in writing, announce its wish to the King that he will deprive this person or persons, against whom observations have been made, of the places which they occupy in the council of state. Questions of this nature can be moved in the chambers of the Diet, and be submitted to them by other committees than the one of the constitution; but they cannot be decided by the Diet before the said committee has been heard. In deliberations of the Diet on this subject, the resolutions of the King in affairs concerning the rights and interests of individuals or corporations cannot even be mentioned, still less submitted to the examination of the Diet. The benefit of the final discharge must be considered as obtained to everything that the Diet, after examination, has approved or left without observation; and no new examination, of any responsibility whatever, can be made by a following Diet, concerning affairs thus examined. Nevertheless, notwithstanding the examination made by committees or deputies of the Diet for the administration of the receipts of the state, it is the duty of the authorized officials to exercise the special revision which belongs to them by virtue of their office.

SECTION 108. The ordinary Diet shall designate, every three years, as is prescribed by the law on representation, six persons distinguished for their knowledge and learning, to watch over the liberty of the press, jointly with the attorney general of the Diet, who shall be their president. This committee, of whom two, besides the attorney general of the Diet, must be jurisconsults, shall have the following authority: In case an author or printer himself sends to them a writing before the printing, demanding their advice on the question to know whether, according to the law on the liberty of the press, he would be liable to be prosecuted for its contents, the attorney general of the Diet, and at least three of the committee, one a jurisconsult, shall be authorized to give, in writing, the advice demanded. If they declare that the work can be printed, the author and printer shall be free from all responsibility, which shall fall upon the committee.

SECTION 109. The ordinary Diet can, unless on its own demand, be dissolved only at the expiration of four months after its meeting, unless the King, as stated in the law on representation, orders new elections, either for both chambers, or one of them. In this case the Diet, in preserving its character of ordinary Diet, shall assemble in the three months which follow the dissolution, at the time fixed by the King, and it can be dissolved by the King only at the expiration of four months after the commencement of its new session. The extra Diet can be dis-

solved by the King when he judges convenient; it must always be before the time fixed for the ordinary sessions. If, contrary to expectation, it happens that the Diet, at the time of its closing, has not regulated the expenses, or has not fixed the amount of the contributions for imposts, the old state of the expenses and the old contribution shall continue until the following Diet. If the total amount of this contribution is fixed, but the chambers are not agreed as to its assessment, the taxes founded on the different articles of the last ordinance, concerning these matters, shall be increased or diminished in the proposition existing between the total amount of the tax, which has just been fixed by the Diet, and the old contribution, the assessment of which was made by the last Diet. In this case, the Diet shall charge its deputies of the bank and the office of the public debt to prepare, according to established bases and publish a new ordinance upon this subject.

SECTION 110. No member of the Diet can be prosecuted, neither deprived of his liberty, on account of what he shall have said or done in the said capacity, unless the chamber, of which he is a member, authorizes this prosecution by a formal resolution, to which, at least, five-sixths of the members present shall have agreed. No member of the Diet can longer be expelled from the place where the Diet is assembled. If an individual or body, military or other, or a meeting of the citizens of any denomination whatever, undertake, of itself, or by order of others, to perform acts of violence on the Diet, chambers, or committee, or on any particular member of the Diet, or to interfere with the freedom of the deliberations and resolutions of the Diet, this shall be called treason, and the Diet can prosecute these infractions, according to the prescriptions of the law.

If a member of the Diet, during the session, either in a journey coming to or returning from the Diet, the object of this journey being known, is molested by words or acts, there shall be applied the resolutions of the code in force, as to violence or offenses committed against officials of the King, in the exercise, or on the occasion of the exercise, of their duties. It shall be the same, if the deputies, the delegated comptrollers' or the attorney general of the Diet, the secretaries or clerks of the chambers and committees of the Diet, are attacked with violence, or insulted in the exercise, or on the occasion of the exercise of the said duties.

SECTION 111. If a member of the Diet is charged with an offense of a serious nature, he can be arrested only on the order given by the judge, after examination of the affair, except in case where he shall have been taken in flagrant act; nevertheless, if he does not appear on the authority given by the tribunal, the resolutions of the code in force relative to it shall be applied. The members of the Diet can be deprived of their liberty only in the cases explained by the present section, and the one which precedes. The deputies and delegated comptrollers of the Diet can receive orders relative to their duties from the Diet alone, and these in conformity with the instructions given by it. They can no more be made responsible for their acts, except according to a resolution of the Diet.

SECTION 112. No official or clerk can exercise, by reason of his office, an illicit influence on the election of the members of the Diet; any one guilty thereof shall be removed from his place.

SECTION 113. Those who are designated to enforce, on the part of the Diet, ordinances relative to the assessment of taxes, can be submitted to no responsibility for the imposition of taxes.

SECTION 114. The privileges, advantages, rights, and liberties of the old estates of the kingdom shall remain in force, except so far as they attach themselves necessarily to the ancient right of representation by the orders, such right of representation having ceased. They cannot be modified, neither abolished, unless there shall be unanimity, in this respect, between the King and Diet; and that, in questions relative to the privileges, advantages, rights, and liberties of the nobility and the clergy, the nobility, on its part, and the general synod for that of the clergy, give their consent to it.

In faith of which we have desired to confirm, sanction, and accept everything which precedes, placing thereto our signatures and our seals.

Done at Stockholm the 16th of June, A. D. 1809.

For the nobility :

M. ANKERSVÄRD,
Marshal of the Nobility.

For the clergy :

AXEL LINDBLOM,
President.

For the burghers :

H. N. SCHWAN,
President.

For the peasants :

LARS OLSSON,
President.

All which is stipulated above we will not only accept ourselves as a fundamental law, but, also, we command and order all those who owe faith, respect, and obedience to us and to our successors, as also to the kingdom, to recognize the present law on the form of government, to observe, conform, and submit to it.

In faith of which we have signed and confirmed the presents with our own hand, and have placed thereto our royal seal.

Done in our capital of Stockholm June 16, A. D. 1809.

CHARLES.

LAW ON REPRESENTATION

Adopted by His Majesty and the estates of the kingdom, Stockholm, June 22, 1866.

We, Charles, by the grace of God King of Sweden, of Norway, of the Goths and Vandals, make known that the estates of the kingdom having, in the order prescribed by the fundamental laws, accepted our project of a new law on representation; this law shall have, conformably to section 82 of the law on the form of government, the force of fundamental law, such as follows, word for word:

We, the undersigned, the estates of the kingdom of Sweden, counts, barons, bishops, orders of the nobility, of the clergy, of burghers, and of the peasants, now assembled in general Diet, in our name and in that of our absent fellow-citizens, make known that his Majesty having, by a proposition dated January 5, 1863, and conformably to section 81 of the law on the form of government, submitted to our examination a project of a new law on representation, we have, after having treated this important affair in the manner prescribed by fundamental laws, accepted the said project thus conceived.

GENERAL PRINCIPLES.

SECTION 1. The Swedish people is represented by a Diet, divided into two chambers, the first and the second, which have, on all questions, the same authority. The members of the Diet shall not be bound, in the exercise of their duties, by any other propositions than those of the fundamental laws of the kingdom.

SECTION 2. The ordinary sessions of the Diet shall assemble, in virtue of the law on the form of government, and without special convocation, the 15th of January of each year, or the day following, if this date falls on a holiday.

The Diet shall be convoked in extra session when the King shall judge it necessary, and also in all cases indicated in sections 91, 92, 93, and 94 of the law on the form of government.

In extra session can be treated only affairs for which the Diet has been convoked, or which, besides, have been submitted to the Diet by the King, as well as all which relates necessarily to the said affairs.

SECTION 3. For the two chambers, the members of the Diet are chosen by election, and for a fixed time. Nevertheless, the King has the right, before the expiration of this term, to cause in all the kingdom new elections, either for both the chambers or one of them.

SECTION 4. No members of the Diet can be prevented from exercising his functions. Nevertheless exception is made in time of war for soldiers when they are called into active service by the King.

SECTION 5. The ordinary Diet can, except on its own demand, be dissolved only at the expiration of four months after its meeting, unless the King orders during the session new elections, either for both the chambers or one of them. In this case, the Diet shall assemble, preserving its character of ordinary Diet, in the three months which follow its dissolution, at the time fixed by the King, and it can be dissolved by the King only at the expiration of four months after the commencement of its new session. The extra Diet can be dissolved by the King when he judges convenient; it must always be before the time fixed for the ordinary sessions.

ORGANIZATION OF THE CHAMBERS.

(a.) *First chamber.*

SECTION 6. The members of the first chamber shall be elected for nine years by provincial assemblies and municipal councilors, or the cities which take no part in provincial assemblies. Each provincial assembly and city of the class mentioned above elect, according to the population of its territory, a member of the Diet for each complete number of thirty thousand inhabitants. If the population does not amount to thirty thousand inhabitants, nevertheless the election of a member of the Diet shall take place.

SECTION 7. The provincial assemblies and competent municipal councilors shall proceed to the election of members of the first chamber as often as there shall be a vacancy, or when the King shall order new elections. For this object, and where it shall be necessary, the provincial assemblies shall assemble in extra session.

SECTION 8. Any member of the first chamber whose term has not expired at the beginning of a session, can continue till the end of the session, although during this time the nine years reckoned from the election shall have expired.

SECTION 9. For members of the first chamber can be elected only persons who have attained the age of thirty-five, and who possess and have possessed, during three years before the election, real estate valued by assessment of taxes at 80,000 riksdalers at the least; or those who, during the same time, have paid the tax to the State, for their capital or their work, on an annual income of 4,000 riksdalers at the least. If, after the election, the member of the Diet finds himself in a position where he shall be no longer eligible, he must resign his office.

SECTION 10. The election terminated, the credentials of the member of the first chamber are issued. These credentials, if he has been named by a provincial assembly, are signed by the president, and countersigned by the secretary of the assembly; if he has been elected by a city, they are signed by the president of the municipal councilors, and by two of these councilors. The said credentials must be written in form as follows:

By virtue of the election, which by the provincial assembly of N. N., or by the municipal councilors of N. N., has been made — day of —, N. N. is hereby empowered to be, during nine years to commence from the day mentioned above, member of the first chamber of the Diet. The place and date.

SECTION 11. If any one has occasion to complain of the election by a provincial assembly, or by municipal councilors, he can bring in an appeal to the King. For this purpose, he can require of the secretary of the provincial assembly or of the president of the councilors an extract of the protocol of the election, which must be delivered to the complainant immediately, or, at the latest, two days after his demand, and he shall, on pain of losing the privilege of complaining, address to the provincial government, at the latest a month after the election, the appeal which he makes to the King. The provincial government, by a statement published in the journals, shall fix a short time in which explanations on the said appeal can be delivered to it. This time having expired, the provincial government shall deliver without delay to the King the evidence and declarations relative to the appeal, as well as the explanations which shall have been presented, in order that the question can immediately be carried before the supreme tribunal and there decided.

SECTION 12. The member of the first chamber can receive no compensation for his services. If he wishes to resign, he must do so at the time of the elections, or later in the interval of the sessions, to the provincial government.

(b.) *Second chamber.*

SECTION 13. 1. The members of the second chamber are elected for three years, to begin from January 1 of the year following the one in which the election has taken place.

2. In the country, to which in electoral matters are united equally the cities which have no tribunal to themselves, as well as the burghs, there shall be elected a member of the Diet by each jurisdiction. As regards jurisdictions whose population exceeds 40,000 inhabitants, the King shall divide them as much as can be done by districts, which shall each elect a member of the Diet.

3. In each city whose population is 10,000 inhabitants or more, a member of the Diet is elected for the full number of 10,000 inhabitants. For the other cities which have their own tribunal, there shall be created, the first time by the King, and afterward every ten years by the chamber, separate electoral districts, as far as can be done by provinces, which shall each elect a member of the Diet. Each of these districts must contain a population of 6,000 inhabitants at the least, and 12,000 at the most.

SECTION 14. Every man has the right to vote in the commune where he resides who has the right of voting on general affairs of the commune, having an income from real estate in the country or city valued at 1,000 riksdalers (\$266) at the least; the lessee for life, or, at least, five years, of agricultural lands, valued by the assessment of taxes at 6,000 riksdalers at the least; and, finally, any one who pays the tax to the state on an annual income of at least 800 riksdalers.

SECTION 15. The elections of the members of the second chamber take place before the end of the month of September which precedes the first of the three years for which they are held.

If the King orders that new elections be proceeded with, or, if otherwise, a member of the second chamber terminates his duties before the expiration of the time for which he has been elected, new elections are proceeded with immediately for the time which remains.

SECTION 16. For the country, the elections shall be held in the presence of the judge, by electors who shall have been designated in the presence of the president of the communal assembly; or, for the communes formed by one of the cities mentioned in section 13, paragraph 2, in the presence of the special administration established for the said cities. There is designated, for each commune, one elector or more, according to the population, or one elector for the full number of 1,000 inhabitants.

In the election districts composed of two or more cities, there shall be elected, before the magistrate, one elector or more, according to the population, or one elector for the full number of 500 inhabitants. These electors, for the elections to the Diet, shall assemble before the magistrate in that city of the election districts which has the most inhabitants.

The communes, which have to elect in common a member of the Diet, can, nevertheless, proceed by direct election if a plurality of voters have thus decided it. When in consequence of a resolution taken before the president of the communal assembly, before the magistrate, or, in the cities which have no tribunal to themselves, before the administration which is specially appointed, persons having the right to vote in a commune are determined upon by direct election, there shall be given a communication of this project to the provincial government, which shall require the votes of other communes belonging to the election districts, and shall publish a statement of the result obtained, that is to say, if the majority of the votes given is for the adoption or rejection of the project. In case of rejection, the question can be again taken up only after five years have passed. If, on the contrary, a change has been resolved upon, it enters into force for the elections which take place one month after the publication of the resolution, and remains applicable for five years at least, after which a resolution as to its continuance can be taken in the same manner as the resolution relating to the introduction of this change. In the direct elections, the votes are given separately for each commune, before the president of the communal assembly, the magistrate, or the administration specially proposed for the cities, in order to make the examination of the votes and the giving of credentials to the one who shall have obtained the majority. The protocols of the elections shall be sent, for the communes of the country to the judge, and for the cities which have their own tribunal, to the magistrate of the city which has the largest population.

In cities which have to choose alone one or more members of the Diet, the election takes place directly before the magistrate. The cities which have to choose several members of the Diet can be divided into election districts, in the manner established for the election of municipal councilors.

SECTION 17. For the choice of electors, as well as the members of the Diet, each voter has one voice. The one who has obtained the majority is legally elected. In case of equal division of votes, the proceedings shall be by lot.

Recourse shall be had for these elections to electoral lists, in force for the communes which must contain the enumeration of persons who have the right of voting, according to section 14.

SECTION 18. The provincial government is charged, when there must be an election for a member of the second chamber, to appoint a competent president of election, who shall cause to be announced in the churches the day and place of election, taking care to prescribe specially that the proceedings for the designation of electors take place eight days at least before the election.

If, in any parish, there is no place of divine service the Sunday on which the notice in question must be published, a competent clerk, on the demand of the clergy, shall cause the said notice to be circulated without delay.

Regarding the meeting for choosing electors, the proceedings shall be according to resolutions established for the meeting of the communal assembly, and for the council of the city, so far as they are applicable.

At the time of the choice of electors, the president of the communal assembly, or the magistrate who presides at the election, shall deliver a duly authenticated extract of the protocol of the election, as evidence of qualification, to the one or ones who shall have been charged with the powers of electors.

SECTION 19. Only individuals who have attained twenty-five years can be elected members of the second chamber, and who, according to section 14, possess, and have possessed at least one year before the election, the right of voting in the commune or in one of the communes for which they are elected.

SECTION 20. The credentials of that one who has been elected member of the second chamber are delivered to him immediately. They are signed by the judge for the election districts of the country; by the magistrate for the cities who choose alone a member of the Diet; and for the election districts composed of several cities, by the magistrate who has made the definite statement of the votes.

These credentials must be written in the following form:

At the elections which have taken place on the — day of —, in the jurisdiction of N. N., (election district of N. N., of the jurisdiction of N. N.,) or in the city (or cities) of N. N., N. N. has been elected member of the second chamber of the Diet for

a term of three years, to commence from the 1st of January of the year following, (or, if the election has taken place in consequence of an ordinance of the King relative to new elections, or in consequence of a member terminating his duties before the expiration of the time for which he had been elected,) for the time to extend until the 1st of January of the year —. This shall serve as a proper credential. The place and date.

SECTION 21. The one who has been elected member of the second chamber of the Diet cannot, unless for valid reasons, refuse to accept this office.

The following cases are considered valid:

1. If the elected can urge obstacles considered by the code in force, as a case of legal prevention.

2. If he is more than sixty years of age.

3. If he has already, as member of the Diet, served in three ordinary Diets.

The resignation given at the time of the elections is examined by the one who presides at the election. If it is given later, in the interval of the sessions, it is examined by the provincial government.

SECTION 22. 1. If any one has protested against the election of a member of the second chamber, he must send an appeal to the provincial government of the place of the election, in case the election has taken place; for several cities, in various provinces, the appeal must be carried to the government of the province where the final canvass has been made. In this case the complainant can require of the judge, or of the magistrate who has made the final canvass, an extract of the protocol—an extract which must be returned to the complainant immediately, or, at the latest, two days after his demand. He shall, on pain of forfeiting his right to complain, address, at the latest, within eight days after the election, his appeal to the provincial government—which is said in section 11 enables competent persons to present their observations—and make known his decision, at the latest, before the end of the day which follows the one on which the time accorded expires.

2. Any one who has protested against the decision of the provincial government, can, at the latest, within eight days after the notification which has been made to him of it, address to the provincial government his appeal to the King, after which the proceedings shall be as said above, section 11.

3. If any one wishes to make an allegation against the decision by which his resignation, as member of the Diet, has not been admitted, the proceedings on this account, if the resignation takes place at the time of the elections conformably to paragraph 1 of the present section, and if taking place later, it is addressed to the provincial government, conformably to paragraph 2.

SECTION 23. Each member of the second chamber shall receive from the state funds, for traveling expenses and salary, 1,200 riksdalers for each ordinary session. But if the King dissolves the Diet before it has lasted four months, or if otherwise the member of the Diet leaves his office in the course of the session, before the four months have expired, also in case of extra session, the member shall receive, besides traveling expenses, a salary of 10 riksdalers per day, without the total sum exceeding 1,200 riksdalers.

The member of the chamber who shall not be present at the Diet at the required time, shall submit to a forfeiture of 10 riksdalers for each day of absence.

(c.) *General provisions.*

SECTION 24. The right of voting can be exercised only by him who, at the time of the elections, presents himself in person.

SECTION 25. If, at the elections of the Diet, which must be made by closed ballots, there shall be found a ticket bearing the name of a person who is not eligible, or designating a greater or less number of candidates than can be elected, or if the ticket presents some uncertainty as to the name of the person or persons elected, the said ticket shall not be counted.

SECTION 26. The functions of a member of the Diet can be exercised only by Swedish citizens belonging to the Protestant Church. As members of the Diet cannot be admitted—

(a.) Any one under guardianship.

(b.) Any one who has assigned his effects to his creditors, and who cannot prove in the manner duly prescribed that he is free from the disability.

(c.) Any one who is prosecuted, or who has been condemned for an infamous crime, or who for such crime has not been finally acquitted.

(d.) Any one who is not in the enjoyment of his civil rights, or who has been declared unworthy of pleading for others before a tribunal.

(e.) Any one who shall have been convicted of having, in the elections, sought to gain votes by means of money or presents; the one who shall have sold his vote finally, the one who, by violence and threats, shall have interfered with the liberty of the elections.

SECTION 27. If a person has been simultaneously elected member of both chambers or of one chamber for two or more districts, he may choose in which of the two chambers he will serve, or which election district he intends to represent. Nevertheless he must immediately make known his decision to the provincial government of the place for which he does not accept the office of member to the Diet.

SECTION 28. Each of the chambers must make known to the King the vacancies which occur in it, and which must be filled in the same session, or before the next session after which the King shall order the provincial government to proceed with new elections.

If, in the interval of the sessions, there occurs a vacancy in one or the other of the two chambers, the provincial government is charged to proceed with a new election.

SECTION 29. In the course of the session, no member of the Diet can resign his office without furnishing reasons recognized as valid by the chamber to which he belongs. Nevertheless, the present resolution effects no change to what is said above, relating to the right he has to resign his office at the time of the elections.

SECTION 30. Each chamber has the right to impose fines upon any member of the Diet who, without proper reasons, does not present himself at the desired time, or who otherwise, without authority from the chamber, and without legitimate reasons, abstains from taking part in its deliberations. These fines are received to the profit of the public treasury.

OPENING AND CLOSING OF THE DIET.

SECTION 31. The Diet shall assemble in the capital of the kingdom, excepting in cases where the approach of an enemy, pest, or other obstacles of the same gravity shall render it impossible or dangerous for its liberty and security. In this case, it belongs to the King to designate and declare officially another place of meeting, conformably to the resolutions of section 50 on the law on the form of government.

SECTION 32. 1. Any one who shall have been elected member of the Diet must, the first time he presents himself there after his election, submit his credentials to the revision of the minister of state and of justice, or the one whom the King shall have designated in his place. The examination of his credentials must take place the same day on which the Diet shall assemble, or as soon as possible, in case the member shall present himself later. This verification, which shall take place in the presence of three of the deputies of the office of the public debt, has for an object to ascertain if the credentials are in the prescribed form, and shall, at the Diet for which a new election for both chambers, or for all the members of one of them, has taken place, be completed within three days, but at other Diets the day when the credentials are presented.

2. To each chamber, nevertheless, it belongs to verify the competency of its members, not only of those whose credentials have not been acknowledged valid, but also of those against whom otherwise observations can be presented in consequence of the present fundamental law. This one, whose right to serve in the Diet is put in question, retains, nevertheless, his office as member of the Diet, until he shall have been declared incompetent to act.

SECTION 33. As soon as the verification prescribed in paragraph 1 of the preceding section has taken place, and the minister of state and of justice, or the one who has been designated in his place, has informed the chambers of what concerns their respective members, each of the two chambers shall send immediately to the King a deputation, to request him to name a president and a vice-president, whom the King shall choose for the two chambers from their respective members.

1. The president and the vice-president shall take the oath before the King, as follows: "I, N. N., appointed for this Diet president (vice-president) of the first (of the second) chamber, swear before God and His holy gospel, that I wish to sustain and defend, and that I will sustain and defend, with all my powers, the authority of the King and the rights of the Diet, conformably to the law on the form of government of the kingdom. I will conform myself equally and without reservation to the other fundamental laws of the kingdom. I will be faithful to this oath, as truly as God shall save my body and my soul."

When, in any of the cases provided for in sections 91, 93, and 94 of the law on the form of government, the Diet assembles to consider on the convocation of those cases directly designated in section 95 of the same fundamental law, each chamber has the right to choose for itself a president and a vice-president, who take before the chamber the above-written oath.

Before the appointment of the president, as said above, the presidency belongs to that one of the members present who has served in the greatest number of Diets; if two or more members have served in the same number of Diets, the presidency belongs to the eldest.

SECTION 34. The King shall make known publicly the day of the opening of the Diet, which cannot be fixed later than the fifteenth day (not holy day) after the meeting of the Diet. On this day, the members of the Diet, after having attended divine service,

shall assemble in the hall of the throne, or, if it is judged best, the speech shall be delivered by one of the ministers of state. On this occasion the King shall communicate to the ordinary Diet an exposition of the condition of the kingdom since the last ordinary Diet. He shall submit equally to the Diet, in two copies, one for each chamber, a proposition relative to the condition and financial needs of the state, containing also a project relative to the means by which imposts can be demanded, such as the necessities of the state requires outside its ordinary resources. But if the Diet is assembled in extra session, the reasons of the convocation are made known to it, and it shall receive communication of the projects and propositions on which the chambers must deliberate. Nevertheless, the King remains free to present further projects.

When the King opens the Diet, as is said above, the presidents must on the same occasion, and in the name of the chambers, present to him their respectful homage.

SECTION 35. Each chamber can choose and appoint its secretaries. The other officials, whom each chamber shall judge necessary during the Diet, shall be appointed, together with the secretary, by the president and some members designated for this purpose by the chambers.

SECTION 36. If the King wishes to dissolve the Diet, and order new elections in all the kingdom, either for both chambers or for one of them, he shall convoke the Diet in the hall of the throne, where the resolution relative to it shall be communicated to it.

At the close of the Diet the members shall present themselves, on the convocation of the King, after having attended divine service, in the hall of the throne, and, through their presidents, present to him their good wishes. The reading of the proceedings of the Diet follow, after which the King in person, or one of the ministers of state, shall pronounce the Diet closed.

PREPARATION OF BUSINESS.

SECTION 37. 1. In each ordinary Diet, and within eight days after the opening, shall be formed a committee on the constitution, a committee on finance, a committee on taxes, a committee on the bank, and a committee on legislation. The standing committees of the Diet shall consist of—for the committee on the constitution, 20 members; the committee on finance, 24 members; the committee on taxes, 20 members; the committee on the bank, 16 members; and the committee on legislation, 16 members. Each of the chambers shall choose for itself one-half of these members, either by direct election, or, if the chamber thus decides, by means of electors. When it shall be judged necessary, there can be formed, in virtue of a resolution of the chambers, special committees to consider certain questions which belong to standing committees, and, on their demand, the number of committees can be augmented.

2. Each chamber can choose for itself substitutes to replace the members of a committee in case of vacancy.

3. If in one of the chambers there arises a question which is not in the province of the committees above mentioned, but, nevertheless, of a nature to be considered by a committee, there shall be formed a committee for the occasion, charged to consider the said question. This committee shall consist of as many members as the chamber shall judge necessary, and of its own members.

4. In the extra sessions, only the number of committees shall be formed necessary for the preparation of business, which, according to section 2, shall be submitted to them.

SECTION 38. It belongs to the committee on the constitution to examine the fundamental laws of the kingdom, and to propose to the Diet the modifications which it judges absolutely necessary, useful, or possible to add to it, as also to pronounce upon questions relative to the fundamental laws, which are submitted to it by the chambers.

2. The committee is charged to require protocols of the council of state, with the exception of those which concern ministerial affairs and those of military command, and which can be demanded only as far as they relate to the affairs known and indicated by the committee. The law on the form of government has established as regards the right and duty incumbent on the committee, after the examination of these protocols, to make known to the Diet the observations to which it has given place as to take such measures required in consequence of the said observations; and in case where a deputy, or even a committee, other than that on the constitution, alleges that the council of state, or some one of its members or reporters, have not properly exercised their functions, the same law on the form of government enacts equally regarding the right and duty of the committee on the constitution to make known its opinion before the question shall be decided by the Diet. It belongs also to the committee to decide the differences which arise between the two chambers upon the question as to what committee a matter must be sent, and also to decide between the chambers and its president, when he refuses to make a proposition.

SECTION 39. The committee on finance, which shall receive communication of the proposition made by the King to the Diet, relating to the condition and financial

needs of the state, and which has the right to demand the communication of all the accounts and acts of the treasury, is charged with verifying, examining, and making known in a report the condition and administration of the treasury, and of the office of the public debt; also of proposing not only the sums required by the necessities, after all the reductions and necessary retrenchments have been made, but also the sum which, conformably to section 63 of the law on the form of government, must be reserved for special cases. He is charged also with proposing the amount provided for taxes.

The committee is charged equally with examining and verifying whether the payments made or dispositions of the funds of the state do not exceed the amount of the head-titles established in the budget determined upon by the Diet; also whether the payments are founded on the properly raised allowance, or on the ordinances of the King, duly countersigned, or if they are accompanied with receipts from those who have received the funds. If, contrary to the resolution of the Diet, it is found that the sums carried to the title-page have been applied to other objects than those which belong to this title-page, or that one of the credits opened by the Diet has been exceeded, the committee must point out to the chambers the official who shall have countersigned such an ordinance, after which the proceedings shall be conformably to sections 106, 107, of the law on the form of government. Nevertheless, the committee cannot, contrary to the provisions of section 90 of the law on the form of government, include in its censure the ordinances made by the King; the accountable officials, charged with public disbursements, can no longer be cited personally before the committee or before the Diet, but the latter may, if it is necessary, make known to the King the motives which exist for demanding that the said official be legally proceeded with.

SECTION 40. The committee on taxes is charged with preparing all the questions which are referred to it by the chambers, and which relate to the changes in the dispositions on the establishment of taxes, as well as to present (under the form of project) the amount of the various taxes. It is charged equally, when the financial needs have been established and appointed, to propose the means of increasing the taxes, if it is necessary, or of diminishing them if it is possible, and to submit to the Diet a project of law on the taxes made in consequence. The committee can, besides, in questions relative to taxes, propose what seems to it equitable and useful.

SECTION 41. It devolves on the committee on the bank to control the administration and condition of the bank, or to propose to the chambers, as also in cases where the Diet has delegated power to it, to give instructions relative to the administration of this establishment.

SECTION 42. 1. The committee on legislation shall give its advice on all projects sent to it by the chambers, in order to establish, modify, explain, or abrogate the general legislation, civil, criminal, or ecclesiastical. Under the title of civil and criminal laws must be included also the military laws and ordinances for those of such a nature as are applicable to civilians.

2. The committee shall examine also the accounts made by the attorney general of the Diet, as well as his journal and correspondence, and shall make a report relative thereto to the Diet.

SECTION 43. No member of the council of state, neither of the supreme tribunal, can form a part of the committees or take part in the election of the said committees. No one of those of whom the Diet can exact any responsibility whatever can form part of a committee which has to scrutinize its own administration.

SECTION 44. The committee shall choose for themselves their chairman and their vice-chairman. Until they have been named, the chairman shall be that one of the members who has served in the greatest number of Diets; and if two or more have served in an equal number of Diets, by the eldest. The permanent committees shall choose separately their secretary, and, with his concurrence, the other officials judged necessary. In the temporary committees the members shall choose among themselves, and for each matter specially, a reporter authorized to commit to writing the opinion of the committee on the matter.

SECTION 45. All the committees must assemble in four days from the one on which they were formed. They must give, as soon as possible, their opinions.

If a member of a committee has neglected three successive times from taking part in the deliberations, without lawful reasons, the chairman must give advice of it to the chamber which the affair concerns, in order that another member shall be designated, in the order prescribed, to act in the committee.

SECTION 46. If a committee has need to procure, verbally or by writing, information on the part of a functionary of the King or of a general administration, the committee can address itself, through its president, to that member of the council of state whom the King designates for each Diet, and request an order from the King, in order that the persons or administrations in question may furnish the desired information. Nevertheless, the office of state, (Stats-Kontoret,) and the administrations of the bank, and the office of the public debt, in questions of compatibility, must give immediately the information desired.

SECTION 47. If a permanent committee judges it necessary, in order to consider any matter, to unite itself to another permanent committee, this union shall take place by means of delegates, in such a manner as the committees shall agree upon. This joint committee shall have the right, on questions considered by it, to report its opinion without the other members of the two committees taking part in it.

SECTION 48. When, in a committee, a secret vote is to be taken, a secret ballot must be drawn and laid aside, which ballot shall be opened only in case when, at the counting of the votes, they shall be found equally divided. If a majority has already been obtained, the said ballot must be destroyed immediately, without having been opened.

The member who does not approve of the resolution of the committee is free to make known to the chambers his particular opinion at the same time with the opinion of the committee, and in this case this opinion must be sent in writing to the committee. Nevertheless, the delivery of the report of the committee cannot be hindered by this fact.

SECTION 49. The reports of the committee are signed by the chairman.

SECTION 50. If the King demands of the Diet special delegates for conferring with him on matters which he judges a duty to be kept secret, twelve members are chosen, six by each chamber. Nevertheless, these delegates have not the power to form decisions, but only to give to the King their opinion on matters which he has communicated to them. The King designates the secretary and other clerks of these delegates.

OF THE MANNER OF TREATING MATTERS IN THE CHAMBERS.

SECTION 51. The presidents, or, in case they are prevented, the vice-presidents, are authorized in each chamber to make the convocation of the assemblies, to make the report of affairs, to sum up and make known their expressed opinions, to make propositions relative to the resolutions to be taken, and to maintain order in the assemblies, all according to the resolutions of the present fundamental law. Nevertheless, one who exercises the presidency can take part neither at the deliberations nor in the votes, and can make no other propositions than those which concern the observing of the fundamental laws, special resolutions of the Diet or of the chambers, or further regulations established on the manner of treating the affairs of the Diet.

The president has not the right to close a session of the chamber without its consent.

SECTION 52. In the sessions of the chambers, each member has the right to express himself freely to the protocol, both to pass his judgment on all questions submitted for deliberation, and on the legality of everything which takes place in the chamber. Each one speaks, following the order in which he is inscribed and finds himself called, and no one is authorized to speak outside of the protocol. No one must allow himself to make use of personalities; if this takes place, the chamber must examine if the member who has thus forgotten himself must receive from the president suitable representations and warnings, or if the affair must be sent to competent tribunals, or even if it should be held to no account.

SECTION 53. In the presence of the King, the Diet or the chambers must neither deliberate nor take resolutions on any matter whatever.

The members of the council of state can appear in each chamber, with the right to take part in the deliberations, but not in the voting, unless they are members of the council of state. Nevertheless, the members of the council of state, when, according to the law on the form of government, they are charged with the administration of the kingdom, even as the guardians of the minor King, can neither assist in the deliberations of the chambers, nor take part in the voting.

In affairs which personally concern a member of the chamber, he is permitted to assist at the deliberations, but not in voting.

SECTION 54. The communications and propositions of the King, with the exception of those mentioned in section 34, shall be presented to the two chambers through a member of the council of state; they must always be accompanied with the opinion of the said council, and, when it relates to establishing, modifying, explaining, or abrogating general laws, civil, criminal, and ecclesiastical, also with that of the supreme tribunal.

SECTION 55. Motions, which are of the jurisdiction of permanent committees, can be made by a member of the Diet in the chamber to which it belongs, in ten days after the opening of the Diet. Later, and with the exception of projects on the fundamental laws, a member cannot make such motions, at least if they do not relate directly to a resolution taken in one of the two chambers, or to a matter treated there, or to some event which shall be brought forward during the Diet.

In matters which are not in the jurisdiction of the permanent committees, motions can be presented as long as the Diet assemblies.

Motions must always be expressed in writing, in order to be added to the protocol. Matters of a different matter cannot be united in the same motion.

SECTION 56. The propositions of the King, as also motions in matters which are of the jurisdiction of permanent committees, cannot be submitted to the decision of the

chamber before the committee shall have given its opinion. If the motions concern other matters, and are not exclusively special to the chamber, they cannot be adopted without a previous reference to the committee. But the special questions belonging exclusively to one of the two chambers can be decided immediately.

SECTION 57. If a member or a committee, other than the one on the constitution, possesses the chamber with this fact, that the council of state, or one of its members or reporters, has not properly filled his office, the following formula alone must be employed :

"Allegations have been made against the council of state, either such or such a member, or such or such a reporter of the council of state, and demand is made for the sending back of the matter to the committee on the constitution, before which explanations shall be given."

This disposition must positively take place immediately. The resolutions of section 107 of the law on the form of government shall be applicable to the deliberations of the chamber on such a question, if it concerns a resolution of the King in affairs concerning the rights and interests of individuals or corporations.

SECTION 58. When a proposition or a motion shall come to the chamber for the first time, it must, unless the committee returns it immediately and with the unanimity of the committee, be adjourned to the next assembly, or the said dismission will take place if the question is not abandoned, or, if concerning the chamber exclusively, it has not been otherwise decided. Each member can express his opinion on the matter, which is also addressed to the committee, yet without this act delaying the dismission.

If the question arises to which committee a matter must be referred, the question can only for that meeting where it arose be laid on the table. At the next meeting it must necessarily be disposed of.

SECTION 59. The opinion of the permanent committee who shall succeed it shall be reported to the two chambers simultaneously, as soon as possible, for the solution of the matter. After the first notification of this report, the resolution to consider the affair shall be adjourned. At the second notification it can, on the collective demand of several members, be adjourned anew, whether there shall then have been deliberations on it or not. But when the matter shall come for the third time, it must be decided.

Regarding opinions emanating from temporary committees, they shall be the subject of a report to the chamber which shall have created these committees; the matter shall be proceeded with as said above. An immediate decision can be taken relating to propositions and preparatory inquiries of the committee, unless a member of the chamber demands an adjournment.

SECTION 60. When a matter shall be decided definitely, a reading of the parts relative to it must be made, if a member of the chamber demands it. The definite solution of a matter, which has been the subject of deliberation, cannot be undertaken before the chamber, on the reference of its president, has declared the deliberation closed. After this declaration the motion must be put. If a question can be the subject of adoption or rejection, the first proposition made by the president must be for the adoption. If decided in the negative, and if, in the course of deliberation, observations or amendments have been made on the matter, the following proposition must conform itself thereto. If a project contains several parts, which cannot conveniently be decided together, a special proposition must be made relating to each part identically, in the same order as prescribed above. The propositions shall be always decided by *yes* or *no* and the president shall declare what the vote is, a declaration to which all must conform themselves, unless the ballot shall decide, which cannot be refused; freedom shall be given, moreover, to each one to commit his personal opinion to the protocol. No one must essay to renew the resolution in question by a new deliberation. When the voting shall take place, the proposition of voting, as well as the contra-proposition, must be immediately clearly composed, adjusted, and settled, and the ballot shall take place immediately after, but no proposition can be made, neither any ballot authorized on the question whether the ballot must take place.

The ballot shall always take place by means of printed tickets, without exterior signs—simple, closed, and rolled. In order to avoid the equal division of votes by *yes* and *no*, in affairs where an absolute majority is required, the president, at each ballot and before the counting of the votes, shall put aside one of the tickets, which shall be sealed. If, when at the counting of the other tickets or ballots, there shall be found an equal division, the sealed ticket shall be opened and shall decide the majority. If the majority is already obtained, the said vote shall be destroyed, without having been opened.

SECTION 61. The president cannot refuse a proposition, unless he judges that the question may be contrary to the tenor of the fundamental laws, and he must always give the reason for his refusal. If the chamber, nevertheless, insists that the proposition shall be made, the president must declare that the deliberation is adjourned, and the matter shall be committed to the committee on the constitution, which, without delay, and in relating his advice, must declare if the question is in opposition or conformity to

the fundamental laws. If the committee has declared that the proposition is not contrary to the fundamental laws, it can no longer be refused.

SECTION 62. The resolutions of a chamber, in questions which do not concern this chamber exclusively, shall be communicated to the other chamber, under the form of extracts of the protocol. If the matter has been treated by a permanent committee or a special committee, which succeeds it, communication of the resolution taken shall be made to the said committee in the same matter. If a member, who does not approve of the resolution of the chamber, wishes to make known his opinion to the other chamber, he has the right to do so. He must in this case join his opinion to the protocol, after which information of it is given to the other chamber, by means of an extract of the said protocol; but by this act the progress of the resolution can in no case be retarded.

SECTION 63. When a question arises on which the committee has expressed itself, the chamber can adopt a resolution, either immediately conformably to the advice of the committee, or without regard to what it has proposed, or, if the matter seems to demand a more ample inquiry, to order its recommitment to the committee.

If the chambers form, on the subject of a question, on which the permanent committee or the special committee which takes its place have expressed themselves, resolutions essentially or partly different, the committee shall try to conciliate as much as possible the two opinions, and shall present a project thereon to the chambers. If the question has been treated by a temporary committee, and if the chamber which has instituted the committee does not reject the motion made on the question, the resolution shall be, by means of an extract of the protocol, communicated to the other chamber; the latter shall act on the said question, either immediately or after the sending back to a committee instituted in the chamber itself, to make a further examination of it. If this chamber then does not adopt the resolution taken by the chamber which first has treated the affair, the said resolution, rejected or modified, is sent again to this last chamber; the latter, in case the resolution has been modified only, submits the matter to a new deliberation, and if the resolution of the first-mentioned chamber is not accepted without changes, the matter returns to the other chamber, to be there submitted to a new examination.

The decisions on which the chambers agree are resolutions of the Diet. If, the matter having been treated as is said above, the two chambers do not take a unanimous resolution, this matter cannot, except in cases mentioned in section 65, be again taken up in the same Diet.

SECTION 64. Every project having for its end the establishing, modifying, explaining, or abolishing fundamental laws, a question which can be raised only in an ordinary session, can be rejected during the same Diet, but it shall be accepted and approved only as a project until adjourned to the first ordinary session, which takes place after new general elections for the second chamber, in order to be submitted to a new trial. If this project is then accepted by the two chambers, it becomes a resolution of the Diet. The chambers have not the right to make any change in an adjourned project. The resolution to be taken on an adjourned project can be sent to no other Diet than the aforesaid, unless there is unanimity on the subject between the King and the two chambers.

SECTION 65. When, in questions relative to the expenses of the state, or to taxes, or concerning the revenues and expenses, as also the direction and administration of the bank of the kingdom, or of the office of the public debt, the chambers take different resolutions, which shall not be conciliated by the project of a competent committee, the two chambers shall vote separately on the different resolutions taken by each of them, and the one which has the greatest number of votes shall become the resolution of the Diet. To avoid in this ballot the equal division of votes, one vote shall be put aside in the second chamber and sealed. In case the other votes are equally divided, this ballot shall be opened and shall decide the question. If a majority is already obtained, the ballot must be destroyed without having been opened.

SECTION 66. In case of the election of the King or heir to the throne, a commission shall be formed composed of 64 persons, each chamber designating 32, within itself and by secret ballot. This commission shall be charged, in case of dissent between the two chambers, to determine the choice. The day after the commission shall have been constituted, the chambers shall proceed to the election of the King or heir to the throne. If the choice of the chambers unites on one and the same person, he shall be considered elected. In a contrary case the commission shall decide. Nevertheless, the commission cannot vote for others than those who, in each chamber, shall have obtained the most votes, each chamber presenting no more than one candidate. The members of the commission who by these duties are not deprived of their rights as members of the Diet, shall assemble the day after the one on which the elections shall have taken place in the chambers, and shall not separate until the choice is made. The one of the two persons balloted for, on whom the majority of the votes in the commission shall fall, shall be legally elected. In the case provided for in section 94 of the law on the

form of government, the commission shall be elected in ten days after the one fixed for the meeting of the Diet in the act of convocation.

SECTION 67. If it is necessary to designate a guardian for the King, (minor,) the chambers shall appoint, at the latest, on the day after the opening of the Diet, a commission composed of the same number of persons, and formed in the same manner as said in the preceding section. The said commission shall ballot in order to elect guardians, the number of whom is fixed by the Diet, which number shall be one, three, or five. Each member of the commission shall bear on a secret ballot the names of the persons he considers worthy to fulfill these functions, and a sufficient number so that it may contain one more than the number fixed by the Diet. Of the names borne on this ballot, the one who shall have obtained the most votes shall be placed the first in a new ballot, and this shall be the majority of the commission, which shall decide. The proceedings shall be the same for the following one as having obtained the most votes; thus with the next, until the number of guardians prescribed shall be filled. The commission cannot adjourn until the election shall be completed, and this election shall be considered as a resolution of the Diet. If it happens that the chambers, within the three days after the opening of the Diet, shall not agree upon the number of guardians, there shall be appointed, as said above, for the commission, and with the same number of persons, a special committee, who shall decide this question by ballot in the term of ten days, the decision having the authority and effect of a resolution of the Diet. The commission must afterward have an election also in the term of ten days, so that in all cases the election of the guardians shall be accomplished in seven days after the opening of the Diet.

SECTION 68. In consequence of section 96 of the law on the form of government, each ordinary Diet shall designate a man known to be versed in jurisprudence and for his perfect honor, who shall be authorized to watch over the administration of the laws by the judges and officials, and to prosecute before the court of the kingdom, or before other competent tribunals, according to legal forms, of which section 102 of the same fundamental laws regulates the organization and grants, those who, in the exercise of their duties, are suspected of having, through favor, partiality, or other motive, committed some illegalities or neglected to fulfill properly their duties.

This attorney general of the Diet, whose rights and duties are more fully defined as well in the law on the form of government as in special instructions, shall be elected by forty-eight electors designated for this purpose, and of whom twenty-four shall be chosen by each chamber by itself. These electors, who must assemble for election the same day they shall have been chosen, cannot adjourn until the election be accomplished, and each one shall propose forthwith, in a secret ballot, the person upon whom the vote must fall. If a person obtains more than half the votes, he is regularly elected. If the votes are divided between several persons in such a manner that the requisite majority is acquired by no one, there shall be a new secret ballot for the choice of the one who shall have obtained the most votes, or, if he is not accepted, for the choice of the one who shall have had the greatest number of votes after him, and so following. If, after all these ballots, no one shall have obtained the majority here prescribed, a new ballot shall be made, over all those which have been the subjects of the previous ballots, and he who shall obtain the most votes shall be considered as regularly elected.

The electors must at the same time that they designate the attorney general of the Diet elect in the same manner a person possessing the qualities required of the said official, in order to succeed him in case of his decease before the following ordinary Diet shall have proceeded to a new election, and to replace him if he becomes seriously ill, or is otherwise incapacitated. In case, while the Diet is assembled, the attorney general of the Diet resigns or dies, the Diet shall immediately put in his place the person who shall have been designated for his successor. If, during the session, the successor designated by the attorney general of the Diet resigns, or if he enters upon duties as attorney general of the Diet, or if he dies, the proceedings shall be as above for the election of another person fulfilling the desired conditions.

If one of the above cases presents itself in the interval of the sessions, the right of the Diet in this respect shall be exercised by the deputies of the bank and the office of the public debt.

SECTION 69. The ordinary Diet shall appoint every three years a commission of forty-eight persons, twenty-four of whom shall be chosen by each chamber, by itself and by secret ballot. This commission, according to sections 103 and 104 of the law on the form of government, has the right of judging if all the members of the supreme tribunal merit to retain their important offices, or if certain ones among them, without it can be proved they have committed faults or crimes, which are provided for in section 102 of the law on the form of government, ought nevertheless to be deprived of the right of exercising royal justice.

This commission shall assemble the same day on which it shall have been appointed. All the members of the commission shall vote first, one after the other, on this question, in order to know if they shall have a ballot for the exclusion of one of the members of

the supreme tribunal. If this question is decided negatively, unanimously, or by an absolute majority, all the members of the supreme tribunal must be retained. If it is decided affirmatively, each of the members of the commission shall prepare a secret ticket, bearing the names of those members of the supreme tribunal, in a greater or less number, whom he considers deserve to be excluded. Among these members the three who shall unite the greatest number of votes between them, shall be submitted, one after the other, to a new ballot. In order that one or several members may be declared dismissed from the confidence of the Diet, two-thirds of the votes are required; afterward the proceedings shall be in conformity to the resolutions of section 103 of the law on the form of government.

SECTION 70. The ordinary Diet shall designate every three years six persons, distinguished for their knowledge, to watch over the liberty of the press, conjointly with the attorney general of the Diet, who shall be their president. These delegates, two of whom besides the attorney general of the Diet must be jurisconsults, must be appointed by the ballot of twenty-four electors, chosen by each of the chambers by itself, twelve for each of them. If in the interval of the sessions the functions of a member cease, the others shall choose a competent person to take his place.

SECTION 71. Each ordinary Diet shall choose by forty-eight electors, of whom twenty-four shall be chosen by each chamber by itself, deputies charged to administer, in conformity with special regulations, the funds and property of the bank of the kingdom and of the office of the public debt. These deputies shall be for each administration, and if, in questions submitted to the ballot, the votes shall be equally divided on two different opinions, the vote of the president shall be the preponderating one. The election shall be made by secret ballot, and in such a manner that for each administration the president shall be chosen first, then the other six members. For each administration the deputies can choose among themselves a vice-president, charged to take the place of the president in case he is incapacitated.

SECTION 72. In each Diet there shall be appointed delegated comptrollers each year, of whom six shall be designated by each of the two chambers. These delegated comptrollers are charged to verify, in conformity to the law on the form of government, and to special instructions, the condition, management, and administration of the treasury, the bank of the kingdom, and the office of the public debt. Each revision shall embrace the account of one year. It shall commence every year, the 15th of August, or, if this is a holiday, the day following, and must be terminated in two months. The delegated comptrollers shall choose among themselves their president, who shall have the ruling vote in case of an equal division of votes by ballot. The observations which the delegated comptrollers believe themselves justified in making in their report to the Diet, shall be, after the explanations relative to it have been furnished, sent by the following ordinary Diet to a competent committee for their examination and further action.

SECTION 73. At the same time and in the same manner as the deputies and comptrollers are appointed, according to the two preceding sections, substitutes shall be designated to take their places in case they shall be incapacitated, viz: three substitutes for the deputies of the bank, three also for the office of the public debt, and six for the annual delegated comptrollers.

SECTION 74. The members of the commission and the electors of the Diet shall choose a president of their own number.

SECTION 75. In every election care shall be taken to observe that the tickets of names, to be valid, shall be simple, closed, and rolled, without exterior signs, and that they present no uncertainty as to the name of persons, neither any error as to their number. When circumstances demand it, the decision shall be by lot between the persons who, in the elections, shall have obtained an equal number of votes.

SECTION 76. On the adoption of a resolution it cannot be changed, but such an addition can be made to it as shall not constitute a change. After the adoption of a protocol, with the consent of the chamber and the speaker, expressions employed by the latter, and the discussion to which it shall have given place, can be suppressed. But such expressions on which the resolution is evidently based cannot be suppressed.

SECTION 77. The member of the Diet who has not been present during the adoption of a resolution by the chamber to which he belongs, has the right to have stated in the protocol this fact, that he has not taken part in this resolution; but he has no right to find fault with the resolution adopted by the members present.

SECTION 78. The Diet, or each chamber separately, in matters which concern it exclusively, has the right to establish regulating orders which, beside the fundamental laws, they judge necessary for the treatment of matters or the maintenance of order, either in the chambers or in the committees. In these orders nothing contrary to the fundamental laws, or to others in force, can be introduced.

COMMUNICATION OF THE RESOLUTIONS OF THE DIET.

SECTION 79. The representations to the King, resolved upon by the Diet, as also the response by this body to the projects emanating from the King, must be made to him

in writing. As regards the propositions of the King, in questions for establishing, modifying, explaining, or abrogating the fundamental laws, the response of the Diet, if the resolution contains an approbation of the King's projects, shall be given in the hall of the throne on the day the King shall have fixed.

SECTION 80. For matters which shall have been treated by a permanent committee, or the special committee which takes its place, the documents which have emanated from the Diet shall be committed to writing, and expedited by the chancellor of the committee which shall have treated the matter.

The compiling and sending of other documents, common to the two chambers, as well as the resolutions of the Diet, shall be confided to a special chancellor of the Diet, under the superintendence of two members of the first chamber and two members of the second chamber, designated for this purpose, who shall be equally authorized to choose and appoint, conjointly with the presidents and vice-presidents, the clerks whom the Diet shall judge necessary for this purpose.

No resolution of the Diet can be sent away if it has not been previously verified and adopted before the chambers. The resolutions of the Diet shall be signed by the members. The other transmissions emanating from the Diet shall be signed only by the presidents.

SECTION 81. The ordinances and general regulations adopted in common by the King and the Diet, shall be published only in the King's name, and signed with his signature.

SECTION 82. The protocols of the chambers and the other acts of the Diet shall be as quickly as possible printed at the expense of the state, the acts wholly, and the protocols in such a measure as each of the chambers, in whatever concerns it, shall judge best.

In faith of which we have confirmed and sanctioned what precedes, placing thereto our signatures and our seals.

Done at Stockholm the 22d day of June, A. D. 1866.

For the nobility :

G. LAGERBJELKE, [L. s.]
Marshal of the Nobility.

For the clergy :

H. REUTERDAHL, [L. s.]
President.

For the burghers :

J. G. SCHWAN, [L. s.]
President.

For the peasants :

NILS LARSSON, [L. s.]
President.

Everything which is stipulated above we will not only accept ourselves as fundamental law, but also we command and order all those who owe faith, respect, and obedience to us, and to our successors, as well as to the kingdom, to recognize the present law on representation, to observe, to conform, and submit themselves to it. In faith of which we have signed and confirmed these presents with our own hand, and have placed thereto our royal seal.

Done in our capital of Stockholm, June 22, A. D. 1866.

CHARLES. [L. s.]

ORDER OF SUCCESSION,

Established by the King and the estates of the kingdom, in virtue of which the male descendants of the very high and very powerful prince, his royal highness the Prince of Sweden, Prince John Baptiste Jules de Ponte-Corvo, shall have the right to the throne of Sweden, as well as to take the reins of government of the kingdom of Sweden. Örebro, September 26, A. D. 1810.

We, Charles, by the grace of God, King of Sweden, of the Goths and Vandals, &c., &c., heir of Norway, duke of Schleswig-Holstein, of Stormarie, and of Ditsmarsen, counts of Oldenburg and of Dalmenhorst, &c., &c., &c., make known: that the estates of the kingdom, having unanimously adopted and resolved upon the order of succession, in virtue of which the male descendant of the very high and very powerful prince, his royal highness the Prince of Sweden, Prince Jean Baptiste Jules, shall have the right to the throne of Sweden, as well as to take the reins of the government of the kingdom of Sweden, and this fundamental law having been presented to our approbation, we have, in virtue of the right which belongs to us, according to section 85 of the law in the form of government, been pleased to adopt, approve, and confirm this order of succession, consented to by the estates of the kingdom of Sweden, such as follows, word for word:

Order of succession, by which the male descendant of the very high and very powerful prince, his royal highness the Prince of Sweden, Prince Jean Baptiste Jules de Ponte-Corvo, shall have the right to the throne of Sweden, as well as to take the reins of the government of the kingdom of Sweden.

Done and resolved upon by the King and the estates of the kingdom in extra Diet held at Örebro, September 26, 1810.

We, the undersigned, the estates of the kingdom of Sweden, counts, barons, bishops, orders of the nobility, of the clergy, of the burghers, and the peasants, here assembled at Örebro in general and extraordinary Diet, make known: that the very high and very powerful prince, his royal highness the Prince of Sweden, Prince Charles Augustus, having deceased without male descendants, and we, the undersigned, having, by the act of election dated August 21, 1810, elected the very high and very powerful prince, Jean Baptiste Jules de Ponte-Corvo, prince royal of the kingdom of Sweden, to succeed with the conditions determined by the said act of election, as well as by the act of acceptance signed, on our demand, by the said prince to his royal Majesty, our very gracious King and actual master, Charles XIII, after his death, (which God, the all-powerful, deign in His grace to retard a long time,) in the government of the kingdom of Sweden and its dependencies, to be crowned and to receive fealty as King of Sweden, and to govern the kingdom, we have, for the male and legitimate descendants of his royal highness, Jean Baptiste Jules, Prince de Ponte-Corvo, been pleased to commit to writing, and decree the present order of succession to the throne and government of Sweden, in the manner and with the conditions herein expressly determined.

SECTION 1. The marriage already concluded of his royal highness, the Prince Royal Jean Baptiste Jules de Ponte Corvo, having been blessed with a male heir, and being yet the first-born son of his royal highness, shall succeed to him in the government, and, after him, his male descendants in direct line, in the order in which they are the nearest to the head of the family. If the male line of the first-born son is extinct, the government shall then fall to the second son of his royal highness, with the right of succession for his male descendants, following the order determined for the first-born; that is to say, according as they are in direct line the nearest to the head of the family. If the male line of the second son is also extinct, the right of succession falls to the third, and thus one after the other, of the other sons of his royal highness, in the same order and in direct descent, following the right of primogeniture as is prescribed herein, through the descent of the first-born.

SECTION 2. If the King of Sweden dies without leaving a male heir, but the surviving queen is enccinte, the council of state shall govern the affairs of state with the royal power and authority, in the manner and according to the conditions indicated in sections 41 and 93 of the law on the form of government, until the estates of the kingdom in the time indicated by the law on the form of government shall be able to assemble for the purpose of establishing the regency of the kingdom. If the queen gives birth to a male child, the estates of the kingdom shall appoint guardians to the minor king, in the manner prescribed in section 94 of the law on the form of government. If the child of the queen is of the female sex, the one of the family who, by order of primogeniture, is the nearest heir of the deceased king, as is said in section 1, shall take the reins of government in the capacity of king.

SECTION 3. The daughters of the royal family and their descendants, though they be males, have no right to the crown, neither to the government of Sweden.

SECTION 4. The second section of the law on the form of government orders expressly that the King must always profess the pure evangelical faith, such as is established and explained by the unaltered Confession of Augsburg, and the decree of the synod of Upsala of the year 1593. The princes of the royal house must also be educated in the same doctrine and in the kingdom. Any one of the royal family who shall not profess the said doctrines shall be deprived of all right of succession.

SECTION 5. No prince of the royal house can marry without the knowledge and authorization of the King. The marriage made without this authorization carry privation to all right of succession to the throne, as much for the prince himself as for his children and descendants. It shall be the same, if with or without the knowledge and authorization of the King he marries the daughter of a private Swede or foreigner. Nevertheless, he shall not be prevented, with the authority of the King, to marry a person of the royal house of Sweden, if she is not related to him to the degree where marriage is prohibited according to the Swedish law.

SECTION 6. The princesses of the royal house cannot contract a marriage without the knowledge and authorization of the King. They shall not be permitted to marry a Swede outside of the royal house.

SECTION 7. The princes and princesses of the royal house of Sweden cannot undertake a journey to a foreign country without the knowledge and authorization of the King.

SECTION 8. No prince of the royal house of Sweden can, without the consent of the King and the estates of the kingdom, become prince of a foreign state, although he may be called there by election, heirship, or marriage; otherwise, he and his descendants lose all right to succeed to the throne of Sweden.

SECTION 9. If the misfortune arrive that all the dynasty to which the right of succession to the kingdom is reserved is extinguished in the male, or lose the right of succession, for having neglected to observe what the present order of succession expressly prescribes, the throne shall be vacant, and the estates of the kingdom shall then elect a new dynasty.

In faith of which, we, the estates of the kingdom of Sweden, have approved and decreed all which precedes, in placing thereto our signatures and our seals. Done at Örebro, September 26, A. D. 1810.

For the nobility:

CLAES FLEMING, [L. s.]
Marshal for the Nobility.

For the clergy:

JAC. AXCL. LINDBLOM, [L. s.]
President.

For the burghers:

J. WEGELIN, [L. s.]
President.

For the peasants:

LARS OLSSON, [L. s.]
President.

All which is stipulated above we will not only accept ourselves as irrevocable, fundamental law, but also we command and order all who owe faith, respect, and obedience to us and to our successors, as well as to the kingdom, to recognize the present order of succession, to observe, conform, and submit to it.

In faith of which we have signed and confirmed these presents with our own hand, and have placed thereto our royal seal. Done at Örebro, September 26, A. D. 1810.

CHARLES. [L. s.]

LAW ON THE LIBERTY OF THE PRESS.

Adopted by the estates of the kingdom and sanctioned by the King, July 16, A. D. 1812 at Örebro, with the changes made therein by the King and the estates of the kingdom up to the Diet of 1865, 1866, at Stockholm, inclusive.

We, Charles, by the grace of God King of Sweden, of the Goths and Vandals, &c., &c., heir of Norway, Duke of Schleswig-Holstein, of Stormarn, and Dithmarsk, Count of Oldenburg and of Dithmenhorst, &c., &c., make known: The estates of the kingdom, at present assembled, having unanimously resolved to modify in certain respects the laws on the liberty of the press of March 9, 1810, actually in force, and the law thus modified having been submitted to our approbation, we have been pleased, in virtue of the right which section 85 of the present law on the form of government accords us, to accept, sanction, and confirm by these presents the said law on the liberty of the press, approved by the estates of the kingdom, such as follows, word for word:

We, the undersigned, the estates of the kingdom of Sweden, counts, barons, bishops,

orders of the nobility, of the clergy, of burghers, and peasants, now here assembled at Årebro, in general extraordinary Diet, make known: The law in the form of government, accepted by us June 6, 1809, and decreed by the King and the estates of the kingdom, having granted the liberty of the press to the Swedish nation by the following resolution of its section 86, "that by liberty of the press is understood the right for all Swedes to publish writings without previous obstacles on the part of the public, and not proscribed by the law on the liberty of the press, with the powers afterward to be prosecuted for their contents before competent tribunals, and not to be punished for the said writings, only as far as the tenor of them is contrary to a law established, for guaranteeing the public tranquillity without placing obstacles for the propagation of information." We have resolved hereby, and with regard to the end thus proposed, to declare that every one shall be free to express and manifest his thoughts on any subject, and in any style whatever, of whatever nature the matter, whether it concerns this kingdom or foreign countries, present or past time, persons living or deceased, on condition, nevertheless, that he observes the resolutions against the abuse of the liberty of the press, which, in conformity to the code in force, shall be expressly established hereafter, as to the interior tranquillity and the exterior safety of the state, as well as to the inviolability of the respect due to the Supreme Being, to the government, to citizens and to morals. Consequently, everything imposing upon all of us who can know of the faults of the press, the obligations of being the supporters and protectors of the innocent, we have, in order to insure the liberty of the press, in a manner compatible with the just exigencies of society and of every citizen, decreed what follows, viz:

SECTION 1. 1. The laws, regulations, and proscriptions on the liberty of the press, and the book-trade, before in force, are abrogated by the present law, and consequently also the various defense made up to this time for publishing certain books, writings, and documents. These can be prosecuted only in the manner prescribed by the present law on the liberty of the press. Under the denomination of writings employed in the present law is comprised everything which, by the press, is placed before the eyes of the public. By periodical writings is understood those which appear in regular numbers, or at fixed times.

2. Publications shall be subjected to no examination, previous to their printing, neither to any defense for writing. Notice of a work before the publication shall not be demanded of the printer, editor, or author, and it shall no more be permitted to exercise over printers, authors, or editors a watchfulness of a nature to cramp the printing or the distribution. The institutions of public instruction shall, nevertheless, preserve the ancient right of examining and approving the theses, which must be sustained at their institutions.

3. It shall not be necessary, henceforth, to demand privileges for the publication of a work of any form or nature whatever, and the right of publication by every author or editor by the press is recognized, nevertheless, without prejudice to the exclusive rights already obtained by others. Such an exclusive right can, for the future, be accorded for no longer time than twenty years. Every privilege, already granted for an indefinite time, shall terminate with the life of the one who shall have obtained it. The privileges for the publication of works accorded to the profit of public institutions shall continue to exist only during twenty years, to commence from this day. Nevertheless the King can renew them, each time for twenty years at the longest.

4. Any one who shall publish a journal or periodical must make to the minister of state and of justice a declaration, containing the title and place of printing; the minister shall be required to deliver to him a certificate, testifying that no obstacle exists to the publication of the work, provided, nevertheless, that the applicant has not been condemned for an infamous crime or declared unworthy to plead for others.

5. A privilege shall not be necessary, in order to establish a printing-office, but it shall be free to every one, except prevented by some special ordinance, by ancient privileges, or book-printing regulations, except he is subjected to some corporation rules, to establish in cities, or, at the farthest, at the distance of three English miles therefrom, printing-offices of the nature and size which is judged proper.

When a printing-office is thus established outside the city, the printers, workmen of the said printing-office, and the authors and editors of works which are printed there, shall be under the jurisdiction of the city in all affairs which relate to the printing of books.

Any one who establishes a printing-office shall be required, at the latest within thirty days which precede the publication of a work, to make known in writing to the magistrate of the city the place of his industry, or the jurisdiction to which he belongs as printer, as well as to the provincial government to whose administration the city belongs, that he has established a printing-office, and its locality. The omission of this declaration shall be punished with a fine of 100 riksdalers, and the violation of it shall be published in the public journals. If, in a printing-office whose establishment shall not have been declared in the manner stated, anything prohibited is published, the printer and the author shall be subjected to the same penalties and responsibilities as regards the contents and the violation of the article, and the printing-

office shall be confiscated for the public treasury. It shall be the same if the printing-office changes proprietors. In these two cases the provincial government shall be required, as soon as it shall have been duly informed of it, to give immediately, by the first mail, information of it to the minister of state and of justice.

6. The author shall not be required to sign the printed work. Whether he wishes it to remain anonymous or not, he must send to the printer a sealed letter bearing his name and residence, and provided with a certificate, stating the exactitude of this declaration, and signed by two Swedish citizens enjoying a good reputation and residing in Sweden; in case the work shall be prosecuted in the time fixed by law, and the name and residence of the author shall have been falsely indicated, or they shall have been omitted in the letter, or even in case the author, without lawful reasons, shall have omitted to make his appearance, they shall be subjected to the responsibility which attaches to the author. If the printer reveals the name and residence of the author, without being legally enjoined by the judge, he shall suffer a fine of 200 riksdalers, and his offense shall be published in the public journals.

7. The one who publishes the work of a foreigner, or a translation of the said work, or indeed the work of a citizen, who shall not have made known his name, shall have the same rights, duties, and responsibilities as the author, in all cases where it is not otherwise decreed in the present law. The editors of journals or of periodicals, as regards responsibility, shall be always accounted the author of them; they must watch that the conditions further decreed in the present law, as to publication, be scrupulously observed.

8. The printer shall be required, at the time of the opening of the process, to present to the tribunal the letter bearing the name of the author; otherwise, he shall incur the responsibility of the author, unless the latter shall voluntarily make himself known to the judge. If the process relates to the journals or periodicals, the name of the editor shall be, in consequence of the declaration prescribed herein, given by the minister of state and of justice. The judge must open the letter which contains the name as soon as received by him, and disclose, before the tribunal, the veritable part thus denounced. If, at the end of the process, the judge finds that the complainant has commenced the prosecution without any necessity, in such a manner that the opening of the letter has resulted from it, the complainant shall be liable to a fine of 100 riksdalers. The printer who shall have placed the name of the author, or of the editor, on a writing without his authorization, shall be sentenced to an imprisonment of from two months to one year.

9. The property of every writing rests in the person of the author, or of his heirs or assigns. Nevertheless, if the heirs or assigns of the author have not used their right of publication in the twenty years which follow his death; or even, if after, this right is not exercised during the twenty years, for which it has been renewed, any one may publish by the press the works left by the author. Any one who, without the written authorization of the author or of his assigns, shall print or reproduce his work, shall submit to the confiscation of the edition, or shall pay to the profit of the proprietor an amount equal to the entire value.

It shall be the same with the one who shall print or reproduce the translation of a foreign work made by others, or who shall pass his translation for that of another: nevertheless, the right of property of the translator of a work shall prevent no one from publishing another translation of it.

The editor of a journal or periodical does not infringe upon the property of the author by the fact that he has published therein anonymous writings addressed to him. Any one who shall place a false title to a writing, or indicate a false name of an author or editor, shall be sentenced to hard labor of from six months to two years. It shall not be forbidden to place on the title-page a name which does not designate a person really existing, when a letter indicating the true name of the author shall have been given. Articles taken from a journal shall not be accounted counterfeit when reproduced in another journal; provided, nevertheless, that the journal whence the article is taken is indicated at the same time.

10. The name of the printer, the place and the year of printing, must be indicated on each writing; the omission of this indication on the part of the printer shall be punished by a fine the first time, 300 riksdalers, and, in case of repetition, 600 riksdalers. At the second repetition the printing-office shall be confiscated. Whoever shall have indicated on any printed matter a false name of the printer, or a false place of printing, shall be sentenced to hard labor of from two months to one year. What has been decreed here concerning the indications of the name and the place shall not be applicable to notifications, communications, formulas, contracts, and other works of the same nature.

11. Besides the copy mentioned below, paragraph 2, section 4, the printer shall be required to deposit and furnish gratis to the royal library and to each of the universities of the kingdom, a complete and correct copy, with the plates with which the edition can be ornamented, which shall be effected in such a manner that everything which shall have appeared in the course of the preceding year may be delivered before

the end of June of each year. Whoever shall violate this shall be punished with a fine of 25 riksdalers for each time, and shall be always, under the same penalty, required to supply the said copies in the time newly prescribed.

12. No obstacles shall be imposed on the exercise of the book-trade, neither the publishing for the sale of writings published either in the kingdom or in a foreign country. Every author or editor shall be free in this respect, to sell or cause to be sold a writing belonging to him; nevertheless, those who, with the right of making announcement of it in the journal, desire to exercise the book-trade, or to sell books, either in a shop or otherwise, shall be required to make a declaration of it to the minister of state and of justice, in the manner prescribed for the establishment of printing-offices, and with the same responsibility. There shall be no other hindrances in the selling of a work than those mentioned in section 4 of the present law. Whoever shall have sold a printed work bearing neither the name of the printer nor the place, neither the year of the printing, shall be each time sentenced to a fine of 50 riksdalers, and shall incur, in case the writing shall be prosecuted, the responsibility to which the author is liable if the printer nor the author cannot be found.

SECTION 2. 1. In conformity to the principles established above, for the establishment of general and legal liberty of the press, every author shall be permitted, on conditions stipulated hereafter, section 3, to publish, by the press, his opinions on anything which can serve for the progress of human knowledge.

2. For every matter the style shall depend on the choice of the author, nevertheless, on the responsibility determined hereafter, in case where the writing shall be of an ignominious or infamous nature.

3. In conformity to what is stated in section 1, paragraphs 3, 4, and 9, every author or editor shall be permitted to publish writings of any form, extent, or nature whatever, under the condition only of not violating the right of the property of others.

4. In conformity to what is stated in paragraph 1, of the present section, and for the more certain direction of the editor, every one, nevertheless, with the exceptions and conditions determined upon hereafter, shall be permitted to publish by the press, all documents, protocols, and decisions, relative as much to legal processes as to other public affairs, of whatever name or contents they may be, and if they refer to past or future affairs, to be carried to the court or kingdom, to the supreme tribunal, and to the inferior revision of justice, (Nedre-Justitie Revision,) to the preparatory committee of public matters, to the tribunals, superior and inferior, to colleges, committees, preparatory commissions, directions, commissions, administrations, provincial governments, ecclesiastical consistories, authorities charged with making seizures, or to other public administrations, and that, without distinction, according as these affairs are of a civil, criminal, economical, military, or ecclesiastical nature; besides all the instructions and constitutions, all the regulations, statutes, ordinances, privileges, rescripts, and public decrees abrogated, actually in force, or in view and without distinction from whom they emanate; as also all memorials, official letters, and relations of tribunals, superior and inferior, colleges, administrations, public corporations above mentioned, and officials and employés of the state; in short, the memorials, petitions, propositions, reports, complaints of all associations, both of the administration and of individuals, as well as the decisions and responses relative to it, inasmuch as they are under the jurisdiction of functionaries and public administrations, and for this purpose, not only all the acts must, in the said tribunals and public administrations, be delivered immediately and without delay, and at the expense of whoever shall have demanded knowledge of them, whether he may be interested in the subject or not, at the responsibility of the functionary who refuses to give it, or shall cause an undue delay therein; but still, and under this same responsibility, every one shall be permitted to copy, himself, or to have copied, all records of any nature whatever, in all the archives, and where serious obstacles occur as to authenticated copies, to obtain them on the payment of proper fees.

The following exceptions shall be observed in the authorization above:

The protocols made in the presence of the King, concerning ministerial affairs or those of military command; the protocols and the acts of the council of state, or of the estates of the kingdom; those of the secret committee, or of the committee on constitution relative to the council of state; those of the administration of the bank, and of the office of the public debt; those of committees of the bank and of finance; or those of delegated comptrollers of the administrations of the bank and of the office of the public debt, concerning their secret affairs, can only be required or delivered with the consent of the official who has charge of the same. If similar acts are published by the press without the authority of the official who has charge of them, the editor, if he has been charged to keep them, or if it shall have been his duty to keep them secret, shall be punished according to the code in force, and to special rules. Every other individual who is guilty of this offense shall be condemned to a fine of 100 riksdalers, or more, according to the nature of the infraction. It shall be the same for the one who shall have illicitly published by the press the above-mentioned records, in case

they have been committed to his keeping, unless he shall have been bound by higher fixed accountability not to reveal them.

It shall be forbidden to publish, or deliver, without the authority of the government, ministerial records, memorials, or private reports of diplomatic agents on ministerial affairs of a period of at least fifty years back, private letters—unless they necessarily belong to some judicial proceeding—the writings and records deposited in public archives, without the authority of those who have charge of the same. The offender shall pay a fine of 50 riksdalers.

Every party, in whatever process it may be, is authorized to publish at will, and before the pronouncement of the judgment or sentence, requests, complaints and accusations; but it is equally bound to publish, by the press, the defense of the adverse party, as well as the sentence of the tribunal and the various opinions of its members, as well as everything which can serve for the complete enlightenment of the affair itself, the manner in which it has been conducted, and the preliminary remarks to the sentence shall also be carried to the knowledge of the public. Nevertheless, no one shall be bound to produce other records than those indispensably necessary to such an object: and the decision in this regard shall belong to the judge who shall have been charged with the matter under legal accountability, whether on such an occasion the proceedings do, or do not, conform to the meaning and evident resolutions of the present law. Every offender shall pay a fine of 50 riksdalers.

Every party who shall have a matter, involving his personal rights, pending either before the supreme tribunal, or any other tribunal or public authority, shall have printed information relative to it, or what is called *species facti*; he must, nevertheless, conform to truth and decency. The offender shall pay a fine of 33 riksdalers 16 skillings.

The protocols and records belonging to a criminal case, on which subject the parties are agreed, cannot be printed during the life of these parties without their authorization; or, if the parties are deceased, until after the expiration of fifty years, commencing from their decease. Every offender shall pay a fine of 33 riksdalers 16 skillings.

No one can, in other cases than those specified by the code and ordinances in force, communicate or deliver to be printed, extracts from church registers, or of other records concerning the care of souls and ecclesiastical discipline, relative to the private life and morals of individuals, inasmuch as these records can produce damage or wrong in their consideration. Every offender shall pay a fine of 33 riksdalers 18 skillings.

Everything which shall be obscene, or shall wound modesty, or shall contain blasphemies against God, or injurious expressions against the government of the kingdom, or, indeed, anything which shall have been introduced in judicial records of an injurious character, abusing to or slandering persons, whom the affair does not directly concern, cannot be published by the press, under penalty of a tax of 33 riksdalers 16 skillings, unless, in this last case, the judge who has last pronounced on the matter does not find it necessary to impose the principal sum.

Moreover, as it becomes too extensive to specify scrupulously all the objects, causes, and matters which can present themselves, every one shall be free to publish by the press everything which is not expressly forbidden by the present law; consequently all which, on matters authorized by the present law, shall be the subject of observations, of citations, and remarks by the press, or shall be otherwise made public under the form of examination of reflections, cannot, under the pretext of implying a fault or criticism, be regarded as criminal, inasmuch as the violation shall not cause criminal construction, which involves a punishment to the present law.

SECTION 3. Under the presupposed conditions that on the examination of a writing or of the responsibility it involves, those upon whom such an examination depends must, in doubtful cases, acquit, rather than condemn; and always fix their attention rather on the illegality of the subject and the meaning than on that of the expression; rather on the tendency of the publication than on the violation, and that they shall not otherwise have the right to draw vague conclusions of expressions employed in writing; these shall be considered as abuse of the liberty of the press.

1. Blasphemies preferred against God, or derision of the word of God, or the sacraments: The offense shall be punished according to the code in force, and the publication shall be confiscated.

2. Denial of the existence of God, and of the life beyond, or denial of the pure evangelical doctrine: The offender shall be punished with a fine of 33 riksdalers 16 skillings, or imprisonment from two months to one year, and the publication shall be confiscated.

3. Derision of divine service: The offense shall be punished in conformity to the code in force, and the publication shall be confiscated.

4. All sorts of vicious declarations concerning the King, his person or his actions, his wife, the Queen, or heir-presumptive to the throne: The offense shall be punished according to the code in force, and the publication shall be confiscated.

5. Opprobrious expressions against any other member of the reigning dynasty, invested with royal or princely dignity in the kingdom: The offense shall be punished in conformity to the code in force, and the publication shall be confiscated.

7. Exciting to sedition or revolt: The offense shall be punished according to the code in force, and the publication shall be confiscated.

8. Opprobrious expressions against functionaries and employés in the kingdom, in the exercise of, or on the occasion of the exercise of, their duties: The offense shall be punished according to the code in force.

9. Opprobrious or offensive opinions and expressions, which tend to cause dissensions with foreign powers, if they have been uttered against nations or contemporary States with which the kingdom is at peace, against the chiefs of these States, their government or constitution, superior officers and diplomatic agents, their interior or exterior condition, their enterprises or negotiations: The offense shall be punished in conformity with sections 28 of section 8 of penal law, and the publication shall be confiscated. If the writing is not opprobrious or offensive, but it shall have caused a misunderstanding with a foreign power, it shall be confiscated without legal process.

10. Every publication by the press, which belongs to negotiations entered upon by the state with foreign powers, or decisions and desigus of the King which refer to them, as well as the records of his ministers, councilors, and diplomatic agents, unless the publication shall have taken place with the authorization of the government or with official permission: The offenses shall be punished in conformity to the code in force, and the publication shall be confiscated.

11. Attacks directed against a private citizen and of a nature to criminate his honor, or defame his name and his reputation: The offense shall be punished in conformity to the code in force, and the writing shall be confiscated.

12. False reports and distorted representations tending to deceive and mislead the public: These offenses shall be punished with a fine from 33 riksdalers 16 shillings to 100 riksdalers, and the publication shall be confiscated.

13. The corruption of morals, either by the propagation of doctrines tending to the vice, and especially to the one which wounds modesty, either by representations of the vice so shameful and so little concealed that the result of it may have been to favor a dissolute life: The violation shall be punished in conformity to the code in force, and the publication shall be confiscated.

Regarding confiscated publications, they cannot, as a general rule, be again published by the press, unless the tribunal which decides last the matter shall not have considered it criminal.

SECTION 4. With regard to the watchfulness to be exercised on the lawful publications of writings, the following resolutions shall be observed, viz:

1. The minister of state and of justice must himself, or by delegates appointed by him, as well in the capital as in the country, watch over the publication of writings in the manner and in the measure fixed below.

2. In order to favor this object it is prescribed, as an indispensable measure, that at the same time, not later, a writing shall have been exposed to sale, or in whatever manner it may have been distributed, a copy of it must be sent to Stockholm to the minister of state and of justice, and also to his deputy. The printer, for not fulfilling this formality, shall be punished each time with a fine of 50 riksdalers, and if he prints a journal or periodical without being furnished with a certificate by the minister of state and of justice, testifying that the demand for publication has been duly made, the fine shall be 100 riksdalers, and the distribution of the publication shall be suspended until the editor shall have observed what is decreed in this regard.

3. In all cases where, in conformity with the terms of section 2, paragraph 4, and of section 3, the prosecution shall be exercised by the public ministry, the minister of state and of justice, or his deputy, shall have the right, when he shall judge it necessary, to cause the writing to be seized, which must take place within eight days. The minister of state and of justice must, one month after the day on which a seizure shall have been made, in a provincial town, make known to his deputy if he approves of the seizure or if it must be vacated. If, in the capital, eight days pass without the seizure having been made, or if, in the country, the approbation of the minister of state and of justice has not been procured in the eight days above mentioned the seizure cannot take place, unless a competent tribunal and the committee named to watch over the liberty of the press orders it; but, on all occasions where the minister of state and of justice finds that an infraction of the present law has been made, and all times that the matter, as purely administrative, is not of his jurisdiction, or, even when it relates to personal injuries, and when it can be prosecuted only by the injured party himself, the minister of state and of justice must, whether the writing must be seized or if it shall be only prosecuted before a competent tribunal, transmit the writing without delay, and directly, to the attorney general of the King, to be proceeded with according to law.

4. The following cases shall be considered as administrative cases: If, at the time of the establishing of a printing-office, the resolutions of section 1, paragraph 5, are not observed; if the printer omits to indicate his name on the writing, the place and year of the printing, as thus it is decreed in section 1, paragraph 10; if he does not send, within the prescribed time, a publication issued from his presses to the minister of state and of justice, or to his deputy, in violation of section 1, paragraph 12, printed

works, where the name of the printer, the place and the year of printing have been omitted. In these cases the minister of state and of justice can, in conformity to the resolutions of the present law, immediately impose upon the accused the fine; nevertheless the latter shall be free, if he judges it to the purpose to make application against this decision to the King, through the inferior justice revision, to be made at Stockholm in fifteen days, and in the country in a month after the decision of the minister of state and of justice shall have been duly signified. Besides, shall be considered as administrative affairs only those of an economical nature, which, according to a regulation made on printing-offices and the book-trade, can be of the jurisdiction of the minister of state and of justice, and which shall cause no alteration in the resolutions of the present law.

5. As soon as the minister of state and of justice shall have made known any infraction of the present law to the attorney general of the King, the latter shall be required, immediately, to prosecute the offense before a competent tribunal by an attorney for this deputy. Moreover, he must himself, by respective delegates, watch attentively what belongs to the liberty of the press within limits fixed by law. The attorney general of the Diet shall be equally bound, as regards the infractions of the present law, to lend his service in conformity to principles established in the instructions concerning matters which enter into his province. With regard to personal injuries the injured party can prosecute them either himself or by an attorney.

6. If six months have passed since a publication, in conformity to paragraph 2 above, has been transmitted to the minister of state and of justice, or even to his deputy, which time must be proved immediately by the delivery of a receipt, this writing can no longer give rise to public action. But the party can, in the limits fixed by the law in force, use his right to prosecute if he has been offended in his person by the printing of the writing. If a work has been seized, judicial prosecution must take place within eight days, in the capital and in the country—in eight days after it shall have been known that the minister of state and of justice shall have approved of the seizure; if not, the seizure is dropped, and the sale of the publication shall encounter no obstacles.

7. The editors of journals and periodicals who, as stated in section 1, paragraph 1, are alone responsible, are reminded to make a legal use of the liberty of the press, and for the faults which an editor may commit by means of such a sheet, the fine shall be made double every time the pecuniary sentence must be pronounced.

8. The seizure or the confiscation shall not comprise a larger part of the writing than the sheet, the sheets, numbers or volumes, which are the objects of prosecution.

9. Whoever shall have been convicted of having sold or distributed a publication duly seized or confiscated, shall be, when he shall have had or should have had knowledge of the seizure, subjected to the same responsibility as the author, and punished according to the same rules. The displacement of objects seized shall be, if they are not sold or distributed, punished according to the law in force.

10. For the selling and distribution of Swedish works imported from a foreign country, the minister of state and of justice shall have the same rights and duties as regards works printed in the kingdom, and every vender of such publications shall be subjected to the obligations and responsibility established for printers in paragraph 1 of the present section.

11. If the minister of state and of justice finds that a publication in a foreign language contains anything contrary to paragraphs 4, 5, 7, 9, 10, and 13 of section 3, he must, after temporary seizure laid thereon, humbly apply for an order from the King whether the sale of the publication should be allowed, or continue under further seizure. For this purpose, every individual having been authorized, in consequence of an application addressed to the minister of state and of justice, to engage in the book trade, must send to the said minister, or his deputy, a list of the foreign works introduced by him into the kingdom. If, then, a seizure shall take place, the minister of state and of justice must inquire of the King if security for the seizure must be given for exposing the publications for sale, or if the publications must continue to remain under sequestration, in order to be afterward re-exported, in which case the King shall decide if the bookseller must be indemnified out of the funds of the State, and to what extent.

SECTION 5. The examination of the legality of printed works, which shall be prosecuted, shall always henceforth be submitted to a jury or commission, composed of five persons, who shall assemble at the tribunal where the infractions of the present law shall be prosecuted, and where, through the trial of the parties, the allegations of the accuser and the defense of the accused must take place.

2. Each of the parties must afterward choose four persons residing in the city or environs, enjoying a good reputation for their civic virtues; the tribunal shall choose five of them, the total number thirteen; and after these persons shall have been judged unexceptionable by the tribunal, one named by the opposite party, and one by the tribunal, must be excluded by each of the parties without any explanation of the reasons.

3. The number of the members of the jury having thus been reduced to nine, they shall be convoked by the tribunal on a day fixed as soon as may be, and they shall take the following oath before the judge :

"Almighty God! Thou readest my heart! Nothing is concealed from thy sight, which embraces the universe. Mayest Thou forever withdraw Thy goodness and Thy mercy if I dissimulate my conviction in this matter. I, N. N., swear, therefore, before God and His Holy Gospel, to give my opinion in this matter according to my best understanding and conscience, and to preserve a religious silence on the secret deliberations of the jury."

4. The judge must send to the jury a succinct and exact statement of the nature of the matter and state the question to it in these terms: "Is the publication criminal under the law cited by the prosecution?" And after the president and the members of the tribunal shall have retired, the jury cannot separate until they have voted on the question by *yes* or *no*. To condemn the accused, at least two-thirds of the votes shall be necessary; if not obtained, the case shall be discharged.

5. Immediately after the verdict of the jury has been taken, the tribunal must, without delay, pronounce the sentence in the presence of the parties, declaring the punishment which should be imposed if convicted, or, if acquitted, the reparation to which he is entitled.

6. The violations of the present law shall be under the jurisdiction of the inferior court of the city where the printing-office is situated, from which the criminated work was issued, or where, in conformity to section 1, the establishment of it has been announced. In Stockholm these matters shall be under the jurisdiction of the inferior court; in other cities, where there exists the first and second inferior court, the latter shall take jurisdiction of matters of the press; the jurisdiction of the universities shall nevertheless remain intact, in conformity to their regulations. The time for appearance in the summons shall be always the same, whether the printing-office be established within the city limits or without, as thus the above-mentioned section provides, and the proceedings in this respect shall be in the manner prescribed by the code in force, as to the day of the appearance in the cities. If the question arises whether a printer or author shall be prosecuted for a printed work, or only be subjected to an examination, the party must confront, personally, the said tribunal, but he shall profit, nevertheless, by the privileges of the law, according to the code in force, and the particular ordinances, for everything which has not been otherwise established in express terms by the present provision.

7. After the opinion of the jury shall have thus been taken, the judge shall examine and judge the matter; then he shall refer the judgment to the examination of the second inferior court, as is thus prescribed in chapter 25, section 5; but the papers shall always, in every process relating to the liberty of the press, be sent by the first inferior court to the second, to be there examined.

8. If the minister of state and of justice, or his deputy, finds that in conformity to principles further established for the seizure of a printed work, he can order or demand that it be seized, he shall have the right to cause this seizure to be made, at Stockholm, by means of the grand governor; and in other cities or localities by the magistrate of the jurisdiction to which the printing-office belongs, according to section 1, who cannot refuse to lend his assistance as soon as possible. A protocol of the seizure must be made, stating equally the motives which have occasioned it, and the number of copies of the criminated work found at the printer's house; there shall be three copies of the protocol, one of which shall be sent to the minister of state and of justice, or to his deputy, another to the magistrate, and a third to the printer. The magistrate, under the accountability to which he is liable for a fault committed in the exercise of his functions, must send, by the next mail, a copy of the protocol to the attorney general of the King. At Stockholm, the protocol shall be sent to the said attorney general immediately, or, at the latest, before the close of the day following. The attorney general of the King must immediately, in Stockholm, within eight days, and in the country, at the latest, in three weeks, which follow the seizure, have the matter sent to a competent tribunal, and an accuser appointed, after which the tribunal must, at the latest, in eight days, declare if the seizure must be maintained. If this is not done, and if the seizure is not removed within a month, the printer has the right, in the same order in which the aid of the magistrate for imposing the seizure has been communicated, to demand that it may be removed, which cannot be refused, on penalty of loss of office. The minister of state and of justice cannot otherwise exact the seizure, neither occupy himself further with the matter, but it shall return immediately to the attorney general of the King, who shall watch under his further responsibility that such matters may be treated conformably to the code in force and to the present law. If a work is referred to the attorney general of the King, the latter must, within fifteen days at the latest, cause the matter to be carried to a competent tribunal by an accuser whom he shall have appointed for this purpose; but he cannot order the seizure mentioned above without the authorization of the minister of state and of justice, or of his deputy. If the matter has been carried before a competent tribunal, and if the prosecution shall

have demanded the seizure, the tribunal must decide on this demand within eight days, under the obligation moreover of taking the advice of the minister of state and of justice, or of his deputy, if that can be done without delay. If the demand of seizure is denied, the proceedings shall take their course notwithstanding, but if the demand is granted, and if the minister of state and of justice, or his deputy, shall have approved of the same, it shall be put into execution; the decree of the first inferior court must, nevertheless, in these two cases, be immediately sent to the second inferior court: the latter must afterward take the advice of a committee appointed to watch over the liberty of the press. If this committee votes for the seizure, the second inferior court can, if it judges proper, give its assent to it by a verdict, and the seizure shall then be maintained until the end of the process. If the said committee voted against the seizure, but if the second inferior court finds, notwithstanding, that it must be made, the verdict of the tribunal shall not then go into execution, but shall be submitted to examination of the supreme tribunal. The attorney general of the Diet can, after having been informed of the deliberations on such a matter, assist at the debates, after which he must immediately cause the protocols to be printed, also the verdict of the supreme tribunal, at the expense of the state in case a private publisher is not willing to charge himself with it.

9. In the tribunals of the first inferior court the judge shall examine and judge matters, and shall afterward submit the decree to the examination of the second inferior court, as is thus prescribed in chapter 25, section 5, of the code of procedure, but the paper shall always, in every action involving the liberty of the press, be sent by the first inferior court to the second, to be there examined.

10. If, after the complainant's demand, a work is of such a criminal nature that a felony punishment must follow, and if the author belongs to such a class of citizens that, according to the law and ordinance, he can be judged for this offense only by the second inferior court, (Hoffräll,) the first court, where the ticket bearing the name of the author has been opened, must send the matter to the second inferior court, after which the proceedings shall be in the manner prescribed by the present law.

11. If, in printed works one or several individuals are attacked, and if the attacks not taken place in the exercise, or on the occasion of the exercise of their functions, the injured party alone shall have power to prosecute, and the public ministry can never include such an offense in its accusation, neither prosecute it. The injured party can, nevertheless, if he desires, demand of the attorney general of the King the assistance of the public ministry in the process, the granting of which is optional with him; nevertheless, the absence or non-appearance of the public ministry cannot retard the proceedings before the tribunal. The prosecutions commenced by private persons shall be regulated entirely by the mode of procedure prescribed in the present law and by the code in force; in such matters between private persons the judge of the first inferior court can, nevertheless, without having taken the advice of the minister of state and of justice, or his deputy, proceed with the examination and decision of questions relative to the seizure of the work, after which the parties can, in the desired order, appeal from the decision of the superior tribunal; in this case the seizure cannot be put into execution.

12. In questions of seizure the provincial governments and the magistrates must necessarily, and upon legal penalty, lend their assistance; the seizure of a work published in the kingdom, and found with a bookseller or other vender, can, nevertheless, not be demanded unless it can be proved that the seizure of the work has been made in the place where the printing was done, or that the work has not, in conformity with the provisions of section 4, paragraph 2, been sent to the minister of state and of justice, or to his deputy.

13. If publications printed in Sweden, or works published in a foreign country and introduced into the kingdom, is regarded by one or several foreign ministers or by their governments as of a nature to cause discontent to other powers, the King can decree on this subject, according to the nature of the matter and circumstances, if he deems it necessary, to cause the said works to be seized and confiscated by his minister of state and of justice, or by his attorney general, not only those with the printers, but also with the venders or other distributors in respect to this. The proceedings shall be in the manner prescribed above for making seizures; in case one of the officials, to whom the King shall have given the order for executing this measure, does not make use of the public ministry for the prosecution of the publications before the respective tribunal, he must immediately and necessarily take the advice of the committee appointed to watch over the liberty of the press relative to the works in question. If the committee, who has not entered into the examination of the considerations and political circumstances, finds that the work is not subject to a prosecution according to the letter of the law, it shall depend upon the resolution of the King if the editor or bookseller ought to be more or less indemnified out of the public treasury for the expense of printing and for the paper of the copies seized.

14. If it happens, unexpectedly, that the committee appointed to watch over the liberty of the press is prosecuted in virtue of section 108 of the law on the form of gov-

ernment, the knowledge and decision of the matter shall belong to the second inferior court at Stockholm, of which the fiscal advocate must be the accuser. When the sentence shall have been pronounced, it must immediately, with all the protocols and parts of the process, be carried to the knowledge of the public by the press and at the expense of the state. If the matter is carried before the supreme tribunal, the proceedings must be the same. He who shall have been appointed by the estates of the kingdom to succeed the attorney general of the Diet shall be, in such a case, authorized to enter upon his duties to cause to be printed the parts of the proceedings, and to assist at the deliberations of the supreme tribunal on this matter.

15. All matters relative to the violations of the present law shall be judged with the greatest dispatch with accountability for judges and officials, and in all cases where there can be any question as to punishment of several offenses of a different nature, these matters shall be treated separately; so that, in all cases where the guilty party shall not have incurred the penalty of death or of penal labor for life, he shall suffer separately the punishment to which he shall have been condemned in virtue of the present law. The fines prescribed by the present law shall be charged in conformity to the code in force.

16. The fines imposed by virtue of the present law shall return to the state, except in cases where, according to what has been decreed above, they must return to the injured party.

In faith of which we have confirmed and approved what precedes, placing thereto our signatures and our seals.

Done at Örebro, July 16, A. D. 1812.

For the nobility :

C. LAGERBRING,
Marshal for the Diet.

For the clergy :

J. A. LINDBLOM,
President.

For the burghers :

H. N. SCHWAN,
President.

For the peasants :

LARS OLSSON,
President.

Everything which is stipulated above we will not only accept ourselves as fundamental law, but also we command and order all those who owe faith, respect, and obedience to us and to our successors, as well as to the kingdom, to recognize the present law on the liberty of the press, to observe, conform, and submit to it. In faith of which we have signed and confirmed these presents with our own hand, and have placed thereto our royal seal.

Done at Örebro, July 16, A. D. 1812.

CHARLES. [L. S.]

[Inclosure No. 2.—Translation.]

The constitution of the kingdom of Norway (sections 1—112;) also
The act of union between Norway and Sweden, (sections 1—12.)

THE CONSTITUTION OF THE KINGDOM OF NORWAY,

Given at the National Assembly at Eidsvold, on the 17th of May, 1814, on the occasion of the union of the kingdoms of Norway and Sweden, determined by an extraordinary meeting of the Storting in Christiania, and accepted the 4th of November, 1814.

We, Charles, by the grace of God King of Sweden and Norway, of the Goths and Vandals, &c., &c., &c., Duke of Schleswig-Holstein, Stormarn, and the Dithmarsk, Count of Oldenburg and Dithmenhorst, &c., &c., hereby make known :

Whereas an extraordinary meeting of the Storting of Norway, which, on the 20th October last, decided on the union of this kingdom with that of Sweden, by negotiations with our appointed commissioners, has agreed upon a constitution which, though in some respects modified, still maintains the chief provisions of the constitution of Eidsvold; and whereas we find that the rights and duties of our new subjects are so clearly defined in the constitution which was accepted by the Storting on the 4th in-

stant, and now submitted to us for our sanction, that the unity and strength of the royal power, as well as the legal liberty of the Norwegian people, have been secured, we are pleased, as are our commissioners, (having discussed and ratified the same, according to our full powers,) hereby to accept, confirm, and establish the said constitution and the law of succession attached thereto, together with all their articles, points, and clauses literally, as follows:

Not only are we ourselves pleased to accept them as perpetual, fundamental laws, but we command and ordain that all who are bound to us, our successors, and the kingdom by oaths of allegiance, do acknowledge, observe, and obey this constitution and law of succession.

For further security we have signed these presents with our own hand, and have caused our royal seal to be affixed thereto, which was done in Christiania, on the tenth day of the month of November, in the year of our Lord one thousand eight hundred and fourteen.

In Attestation with the authority granted to me by my most gracious lord and King.
CARL JOHAN. [L. S.]

FISCHER.

We, the representatives of the kingdom of Norway, at an extraordinary meeting of the Storting assembled on the 7th of October, 1814, according to letters-patent of the 16th August, make known:

Having resolved on the day previous, after mature consideration, (as shown by our publication of the 21st ultimo,) that the kingdom of Norway in future shall be an independent country, united with the kingdom of Sweden under one king, without change in its constitution, always excepting such modifications as may be found necessary on occasion of the union, and for the prosperity of the country, we, in view of the said union, have given them our most careful deliberation and treated of them with the royal commissioners appointed to that end, in compliance with the convention of Moss, concluded on the 14th of August ultimo.

We have now resolved, as we hereby declare and decree, that instead of the constitution given by the national assembly at Eidsvold, on the 17th day of May ultimo, the following provisions, which are partly derived from the said constitution and partly made on account of the union, shall be in force, and be inviolably maintained and considered by all whom they may concern, as the constitution of the kingdom of Norway.

A.—THE FORM OF GOVERNMENT AND RELIGION.

SECTION 1. The kingdom of Norway shall be a free, independent, indivisible, and inalienable country, united with Sweden under one king. Its form of government shall be monarchical, limited and hereditary.

SECTION 2. The evangelical Lutheran religion shall remain the established religion of the state. The inhabitants who confess it shall be bound to educate their children in it. Jesuits and monastic orders shall not be allowed.

B.—THE EXECUTIVE POWER, THE KING AND THE ROYAL FAMILY.

SECTION 3. The executive power shall be vested in the King.

SECTION 4. The King shall always confess, maintain, and protect the evangelical Lutheran religion.

SECTION 5. The King's person is sacred; he cannot be blamed nor accused. All responsibility rests with his council.

SECTION 6. The order of succession to the throne shall be lineal and agnatic, such as is provided by the order of succession of the 26th day of September, 1810, passed by the Diet of the kingdom of Sweden and sanctioned by the King, and which is annexed to this constitution in translation. Among those entitled to succession are also counted those who may be born after their fathers' death and who will immediately assume their place in the hereditary line.

When a prince entitled to succeed to the united crowns of Norway and Sweden is born, his name and the time of his birth shall be announced to the next Storting and be registered on its records.

SECTION 7. If no prince entitled to succession exists, the King can propose his successor to the Storting of Norway at the same time as to the Diet of Sweden. So soon as the King has made his proposal, the representatives of both people shall form a committee from their own members, which is entitled to make the election, if the proposal of the King be not approved by the majority of the representatives of both the peoples separately.

The number of the members of this committee, which shall be the same from each country, and the order which is to be observed at the election, shall be fixed by a law, which the King will move simultaneously at the next assembled Storting, and at the Diet of the kingdom of Sweden. One of the aggregate committee, drawn by lots, shall withdraw.

SECTION 8. The year of the King's majority shall be fixed by a law enacted by agreement between the Storthing of Norway and the Diet of Sweden; or, if they cannot agree, by a committee elected by the representatives of both countries, according to the provisions made in section 7. So soon as the King has reached the age fixed by law, he shall publicly declare himself to be of age.

SECTION 9. So soon as the King, being of age, enters on the government, he shall take the following oath before the Storthing: "I promise and swear to govern the kingdom of Norway in accordance with its constitution and laws. May God and His holy word help me thereunto." If the Storthing be not assembled at that time, the oath shall be recorded at the council of state and be solemnly repeated by the King at the next Storthing, verbally or in writing, by some one whom he may depute.

SECTION 10. The King's coronation and anointment shall take place, after his coming of age, in the cathedral of Trondhjem at such time and with such ceremonies as he may himself appoint.

SECTION 11. The King shall, every year, reside some time in Norway, if no unavoidable impediments occur.

SECTION 12. The King shall himself choose a council of Norwegian citizens, whose age must not be less than thirty years. This council shall consist of at least one minister of state, and seven other members.

The King can also appoint a viceroy or a governor.

The King shall apportion the business among the members of the council of state in the way he deems most serviceable.

The King, or in his absence the viceroy, (or the governor, together with the councillors of state,) can, on extraordinary occasions, call other Norwegian citizens to assist at the council of state, but no member of the Storthing.

Father and son, or two brothers, must not be members of the council of state at the same time.

SECTION 13. During the King's absence he shall charge the viceroy, the governor, and at least five members of the council of state, with the internal administration of the country, for the cases prescribed by himself. They shall govern in the King's name, and on his behalf. They shall inviolably observe both the provisions of this constitution and such special orders in accordance with it which the King may convey to them as instructions. They shall transmit to the King an humble report on the matters which they may thus decide on. The affairs are decided by vote. In event of the votes being equal, the viceroy or the governor, or during their absence the first member of the council of state, shall have two votes.

SECTION 14. Only the crown prince or his eldest son can be appointed viceroy, but not before they have attained the age prescribed for the King. Either a Swede or a Norwegian can be appointed governor. The viceroy shall reside within the country, and must not be absent longer than three months in the year. When the King is present the functions of the viceroy shall cease. When no viceroy exists, but a governor, his functions shall also cease, he being in such case only the first councillor of state.

SECTION 15. During the King's residence in Sweden the Norwegian minister of state and two members of the council of state shall always be with him. The latter shall be changed every year. They shall have the same duties and the same constitutional responsibility as the government in Norway, (mentioned in section 13,) and in their presence only shall Norwegian affairs be decided by the King. All proposals to the King from Norwegian subjects shall be first submitted to the Norwegian government, whose opinion is requisite before they are decided on. In general, Norwegian affairs cannot be decided until the opinion of the government residing in Norway has been ascertained, unless important hinderances occur to prevent it.

The Norwegian minister of state shall lay the affairs before the King and be responsible that the documents be in conformity with the resolutions.

SECTION 16. The King shall order all public, church, and divine service, and all meetings or assemblies on religious matters. He shall take care that the public teachers of religion observe the prescribed rules.

SECTION 17. The King can give and repeal ordinances concerning commerce, duty, trade, and police. They, however, must not be at variance with the constitution and the laws given by the Storthing (as prescribed in the following sections, 78 and 79.) They shall be in force till the next assembled Storthing.

SECTION 18. The King shall generally take care that the taxes and duties imposed by the Storthing be collected. The Norwegian treasury shall remain in Norway, and its revenues shall be exclusively employed for the use of Norway.

SECTION 19. The King shall take care that the properties and revenues of the state be employed and administered in the way resolved by the Storthing, as most conducive to the public welfare.

SECTION 20. The King shall, in council, have power to grant pardon to criminals on whom judgment has been passed. The criminal may choose either the King's pardon or the punishment awarded him. In cases of impeachment by the Odelsting before

the high court of the kingdom, (rigsret,) no further pardon can be granted beyond dispensing with capital punishment.

SECTION 21. The King shall nominate and appoint, by and with the advice of his Norwegian council of state, all civil, clerical, and military officers. They shall swear allegiance and fidelity to the constitution and the King.

The royal princes must not fill any civil offices. The crown prince, or his eldest son, however, can be appointed viceroy.

SECTION 22. The governor of the kingdom, the minister of state, the other members of the council of state, the council officers, ambassadors, and consuls, the principal civil and clerical authorities, the commanders of regiments and other military corps, commanders of fortresses and vessels of war, may, without any previous judgment, be dismissed by the King after he has taken the opinion of the council of state.

The next assembled Storthing shall decide whether pensions be granted to the officers thus dismissed; meanwhile they shall continue to receive two-thirds of their previous salary.

Other officers can only be suspended by the King, and shall, in that case, be immediately proceeded against by the courts, but except such judgment be pronounced they cannot be dismissed, nor removed from office against their will.

SECTION 23. The King can confer orders at pleasure, in recognition of distinguished merit, but his reasons for conferring such must be proclaimed. He can grant no other rank or title than that which belongs to the office. The orders shall not exempt any one from the common duties and burdens of a citizen, nor especially shall they admit any one to government offices. Officers who have been honorably dismissed shall retain the titles and rank attached to the offices which they have occupied.

No personal or mixed hereditary privileges shall be granted to any one in future.

SECTION 24. The King shall nominate and appoint the royal household and its officers.

SECTION 25. The King shall be commander-in-chief of the army and navy of the kingdom. They must not be increased nor reduced without the consent of the Storthing. They must not serve under foreign powers, nor must soldiers of any foreign power be called into the country without the consent of the Storthing, except as auxiliary troops against hostile attacks.

In times of peace none but Norwegian troops shall be garrisoned in Norway, neither shall there be any Norwegian troops in Sweden. The King, however, may have in Sweden a Norwegian guard of volunteers, and may, for a short time, not exceeding six weeks in the year, gather the nearest troops of the armies of both countries within the boundaries of one of the countries, but in times of peace no more than three thousand soldiers of all arms of the troops of one country shall in any case be assembled in the other. The troops and the fleet of row-boats of Norway shall not be employed in any aggressive war without the consent of the Storthing.

The Norwegian fleet shall have its dock-yards, and in times of peace its stations and harbors, in Norway.

Vessels of war belonging to one country shall not be manned by sailors of the other, except as volunteers.

The militia and other Norwegian troops, which cannot be classed among the line must never be employed beyond the frontiers of Norway.

SECTION 26. The King shall have power to gather troops, commence war and conclude peace, to enter into and dissolve alliances, and to send and receive ambassadors.

When the King proposes to declare war, he shall communicate with the government in Norway, who will pronounce its views on the subject, and also furnish a complete report of the financial state of the country, its means of defense and other matters.

When this has been done, the King shall form an extraordinary council of state, consisting of the Norwegian minister of state and the Norwegian councilors of state, together with those of Sweden, and he shall then lay before them the grounds and circumstances of the case.

The report of the government of Norway on the state of that country, together with a similar one of Sweden, shall then be produced. The King shall require their opinion on these subjects, which shall be put down separately on the records by each of them, under the responsibility provided by the constitution. The King shall then have power to hold and execute the decision, which he may think most profitable to the country.

SECTION 27. Every councilor of state shall be present at the council, unless lawfully prevented, and no resolution shall be passed, unless more than half the members are present.

In Norwegian cases which (in accordance with section 15) are decided in Sweden, no resolution shall be made unless either the Norwegian minister of state and one of the Norwegian councilors of state, or both the Norwegian councilors of state, are present.

SECTION 28. Reports of appointments to offices and other important subjects (except diplomatic matters and those which properly belong to military commands) shall be

conveyed to the council of state by that member to whose department they belong, and the cases shall be dispatched by him in accordance with the resolution taken in the council of state.

SECTION 29. When a councillor of state is lawfully prevented from being present to report on the subjects which belong to his department, another councillor of state, deputed by the King, if he be present, (or by him who presides at the council of state, if he be absent, and by the other councillors,) shall report on them.

If so many are lawfully prevented from assisting that no more than half the fixed number of members are present, other officials shall equally be deputed to take a seat in the council of state, of which a report shall immediately be made to the King, who shall decide whether they shall continue to fulfil their functions.

SECTION 30. Registers shall be made of all cases which are discussed in council. Every one who has a seat in the council shall give an honest opinion which the King is bound to hear, but the latter can make his own decision. If a member of the council find that the King's resolution is at variance with the constitution or the laws of the country, or is evidently to the detriment of the country, it shall be his duty to oppose it vigorously and to have his opinion recorded in the registers. Whosoever has not thus protested, shall be considered to have agreed with the King and to be responsible for it, as mentioned hereafter, and he can be impeached by the Odelsthing before the high court of the kingdom (the *rigsret*.)

SECTION 31. All orders given by the King himself, (except on matters of military command,) shall be countersigned by the Norwegian minister of state.

SECTION 32. The resolutions which are passed by the government in Norway in the King's absence shall be published in the name of the King and be signed by the viceroy, or the governor, and the council of state, and be countersigned by him who reports on the subject, who shall be responsible that it be dispatched in accordance with the register on which the resolution was entered.

SECTION 33. All reports on Norwegian matters, and the publication of them, shall be given in the Norwegian language.

SECTION 34. The heir apparent to the throne shall have the title of crown prince, if he be the son of the reigning King. The others who are entitled to inherit the crown shall be called princes, and the royal daughters princesses.

SECTION 35. As soon as the crown prince has reached his eighteenth year, he shall be entitled to a seat in the council of state, but without vote or responsibility.

SECTION 36. No prince of the blood shall marry without the King's consent. If this be done, he shall forfeit his right to the crown of Norway.

SECTION 37. The royal princes or princesses shall not be judged by other than the King, or one whom he may appoint as their judge.

SECTION 38. The Norwegian minister of state and the two Norwegian councillors of state who attend the King shall have seats and deliberative votes in the Swedish council when subjects concerning both countries are there discussed.

The opinion of the government in Norway ought also to be asked in such matters, unless they need to be decided on so quickly that there is no time for it.

SECTION 39. When the King dies, and the successor to the throne is not yet of age, the Norwegian and Swedish councils of state shall be immediately convened, in order to call together the *Storthing* in Norway, and the Diet in Sweden.

SECTION 40. Until the representatives of both countries be assembled, and until they have arranged the government during the minority of the King, a council of state, composed of an equal number of Norwegian and Swedish members, shall take charge of the administration of both countries, duly observing their respective constitutions.

The Norwegian and Swedish ministers of state who sit in the mixed council of state above mentioned, shall draw lots for the presidency.

SECTION 41. The rules mentioned in the preceding paragraphs 39 and 40 shall also be observed, when it shall be the duty of the Swedish council of state, in their capacity of council of state, to govern according to the provisions of the Swedish constitution.

When, however, the King, owing to absence from his countries, or illness, shall be unable to discharge the government duties, the heir apparent, if he have reached the prescribed majority, shall take care of the government as the temporary representative of the royal power, and with the same rights as the government *ad interim*.

SECTION 42. The King shall propose to the next *Storthing* in Norway and to the Diet in Sweden a law, resting on the principle of complete equality between both countries, concerning the future provisions necessary for the cases mentioned in paragraphs 39, 40, and 41.

SECTION 43. The choice of the guardians who shall govern on behalf of the King during his minority, shall be made according to the same rules and in the same manner as has already been provided in section 7, regarding the election of a successor to the throne.

SECTION 44. Those who in the cases mentioned in paragraphs 40 and 41 shall be invested with government, shall take the following oath before the Norwegian *Storthing*—

ing: "I do promise and swear to govern in accordance with the constitution and the laws: so help me God and His holy word."

The Swedes shall take the oath before the Diet of the kingdom of Sweden. If the Storting or the Diet be not assembled at that time, the written oath shall be deposited with the council of state and repeated at the next Storting or Diet.

SECTION 45. At the expiration of their government they shall render an account of it to the King and the Storting.

SECTION 46. If those who are responsible do neglect to convoke the Storting immediately, according to paragraphs 39 and 41, it shall become the positive duty of the Storting to direct the same after the lapse of four weeks.

SECTION 47. The direction of the King's education during his minority shall be fixed in the way mentioned in section 7 and section 43, provided no written instructions have been left by his father.

It shall be an unalterable rule, that the King shall be sufficiently instructed in the Norwegian language during his minority.

SECTION 48. If the royal male line has become extinct and no successor to the throne has been elected, a new royal lineage shall be chosen in the way mentioned in section 7. Meanwhile the executive power shall be invested as mentioned in section 43.

C.—CIVIL RIGHTS AND THE LEGISLATIVE POWER.

SECTION 49. The people shall exercise legislative power through the Storting, which shall consist of two divisions, a Lagthing and Odelsting.

SECTION 50. The right of voting is confined to Norwegian citizens, who have attained their twenty-fifth year, who have resided in the country for five years, who live there and (a) are or have been government officials; (b) who are land owners, or who have rented land for more than five years in the country, or who have had certain privileges in Finmark for five years; (c) who are citizens of towns, or who own house or ground in any city or town of the value of at least 300 rigsbank dollars, silver value.

SECTION 51. Returns of all the inhabitants entitled to vote shall be made in every city by the magistrate, and in every parish by the sheriff and the pastor, and an immediate entry shall be made of the changes which may occur in course of time.

Before being entered in the list of voters every one shall swear allegiance to the constitution publicly in the court.

SECTION 52. The right of voting shall be suspended, (a) in the case of criminal prosecution; (b) on account of insolvency or failure, until the creditors have received full payment, unless the failure has been caused by fire, or by other accidents, proved to have been unintentional.

SECTION 53. The right of voting shall be null and void, (a) in case of condemnation to imprisonment, or ignominious punishment; (b) if foreign service is entered without the consent of the government; (c) if the citizenship of another country is acquired; (d) or if detected in buying or selling votes, or in voting at more than one election.

SECTION 54. The elections shall be held every third year. They shall be completed before the end of the month of December.

SECTION 55. The elections shall take place in the country in the principal church of the parish; and in the cities in the church, the town hall, or some other convenient place.

They shall be conducted in the country by the parish priest and his assistants; in the cities by the magistrates and the municipal councilors. The votes shall be given in the order in which the voters are registered. Dissensions concerning the right of voting shall be decided by the officers presiding at the election, whose decisions can be appealed to the Storting.

SECTION 56. Before the elections begin, the constitution shall be audibly read, in the cities by the first magistrate, and in the country by the clergyman.

SECTION 57. In the cities one elector shall be chosen for each fifty inhabitants entitled to vote. These electors shall assemble within eight days after, at a place prescribed by the authorities, and elect either from among themselves, or from the other voters in their election district, thirty-seven representatives to meet and take their seats at the Storting. From among these shall be chosen, (until otherwise directed, from Aalesund and Molde together, one representative; from Arundel and Grinstad together, one; from Bergen, four; from Brewig, one; from Christiania and Hønefoss together, four; from Christianssand, two; from Christianssund, one; from Drammen, two; from Flekkefjord, one; from Frederikshald, one; from Frederikstad, one; from Holmestrand, one; from Kongsberg, one; from Kragerø, one; from Laurvig and Sandefjord together, one; from Lillehammer and Hamar together, one; from Moss and Drobak together, one; from Porsgrund, one; from Sarpsborg, one; from Skien, one; from Stavauger, two; from Yrimsö, Hammerfest, and Vadsö together, one; from Trondhjem and Leranger together, four; from Tönsberg, one; and from Osterrisjer, one.

When a city which has not been mentioned here shall have fifty or more inhabitants entitled to vote, it shall unite with the nearest city and form one district for electing representatives. The same rule shall apply to cities which may be founded after this time. A city which may form an election district, together with another city, shall appoint its own elector, even if the number of its inhabitants entitled to vote should be less than fifty. A city which constitutes an election district by itself shall in no case appoint less than three electors.

SECTION 55. In every parish in the country the inhabitants entitled to vote shall choose electors in proportion to their numbers. Thus, 100 shall choose one; 100 to 200, two; 200 to 300, three, and so forth, in the same proportion. These electors shall, within a month, assemble at a place prescribed by the governor, (amtmand,) and then choose, either from among themselves or other persons in the province (amt) who are entitled to vote, seventy-four representatives to meet and take seats at the Storthing, viz:

From the amt of North Bergenhuns shall be chosen five; from that of South Bergenhuns, five; from that of Christian, five; from that of Hedemarken, five; from that of Romsdal, five; from that of Stavanger, five; from that of Yrumsö, two; from that of Finmark, two, and from each of the ten other amts in the country four representatives.

SECTION 59. The provisions contained in sections 57 and 58 shall remain in force until the meeting of the next legislature. If it shall then be found that the representatives from the cities constitute more or less than a third of the representatives of the entire kingdom, the legislature shall, for the future, alter these provisions in such a manner that the representatives of the cities shall be to those of the country in the proportion of one to two, and the whole number of representatives must be not less than 75 nor more than 100.

SECTION 60. Persons entitled to vote, being in the country, but unable to attend on account of illness, military service, or other lawful impediments, may send their written votes to those who preside at the elections, before their conclusion.

SECTION 61. No person can be elected a representative who has not attained the age of thirty years, and who has not been ten years a resident in the country.

SECTION 62. Members of the council of state and the functionaries employed at its offices, pensioners, and officials of the court cannot be chosen.

SECTION 63. Every one who is elected is bound to accept the election, unless he be prevented by impediments, which shall be proved by the electors, whose decision can be submitted to the judgment of the Storthing.

The person who has appeared as representative at three ordinary Storthings after the same election, shall not be bound to accept the nomination at the next election for the Storthing.

If a representative be prevented by legitimate impediments from attending the Storthing, his place shall be filled by him who stands next through the highest number of votes, or (if a special deputy election was made in the district) by the chosen deputy.

SECTION 64. So soon as the representatives are chosen they shall be provided with full powers, signed, in the country by the chief authorities, and in the cities by the magistrates, together with all the electors, as a proof that they are elected in the manner prescribed by the constitution. The lawfulness of these full powers shall be judged by the Storthing.

SECTION 65. Each representative shall be entitled to compensation from the treasury for traveling expenses to and from the Storthing, and for subsistence during the time he shall stay there.

SECTION 66. The representatives shall, on their journey to and from the Storthing, and during their stay there, be exempt from personal arrest, unless they be detected in the commission of public crimes; neither shall they be answerable out of the sessions of the Storthing for the opinions they have set forth there. Every one is bound to submit to the established rules of proceeding.

SECTION 67. The representatives chosen in the way above mentioned shall form the Storthing of the kingdom of Norway.

SECTION 68. The Storthing shall generally assemble on the first week-day of the month of February in every year, at the capital of the country, unless the King shall appoint another city in the country on account of invasion by enemies or contagious illness. Such an order must be promptly published.

SECTION 69. The King shall have power on extraordinary occasions to convene the Storthing out of the ordinary time. The King shall then issue a publication, which must be read in the churches of all the chief towns of the stifts (bishoprics) at least a fortnight before the members of the Storthing assemble at the appointed place.

SECTION 70. Such an extraordinary Storthing can be adjourned by the King to such time as he may think proper.

SECTION 71. The members of the Storthing shall sit as such for three consecutive years, both at the extraordinary and the ordinary Storthings which may be assembled within that period.

SECTION 72. If an extraordinary Storthing be still assembled when an ordinary one shall commence, the former shall be adjourned before the latter assemblies.

SECTION 73. The Storthing shall choose from among its members a fourth part, which shall form the Lagthing; the remaining three-fourths shall form the Odelsting. The choice shall be made at the first ordinary Storthing in consequence of a new election, after which the Lagthing shall remain unchanged during all the Storthings which are assembled in consequence of the same election, unless vacancies which may occur among the members by special choice.

Each Thing shall sit separately and choose its own president and secretary.

No Thing must sit unless two-thirds of its members are present.

SECTION 74. So soon as the Storthing has declared itself assembled, the King or his deputy shall open its sessions with a speech, informing them of the state of the country and the subjects which he particularly wishes to bring before the attention of the Storthing.

No debates shall take place in the presence of the King.

SECTION 75. The Storthing shall have power—

(a.) To make and repeal laws, to levy taxes, excises, duties, and other public imposts, which, however, shall not be in force longer than the 1st of July of the year in which the next ordinary Storthing shall assemble, unless they are expressly renewed by it.

(b.) To borrow money on the credit of the country.

(c.) To inspect the finances of the country.

(d.) To grant the amount necessary for the expenses of the state.

(e.) To settle how much shall be paid annually to the King and the viceroy for their households, and to fix the royal family's allowance, which, however, shall not consist of real property.

(f.) To demand the records of the government in Norway, and all public reports and documents, (matters of military command excepted,) authenticated copies or extracts of the records, made in the King's presence by the minister of state and the two councillors of state residing in Sweden, or the public documents which have been produced there.

(g.) To receive communication of the alliances and treaties which the King has concluded with foreign powers on behalf of the state, with the exception of the secret articles, which, however, must not be in variance with the public ones.

(h.) To require the attendance of every one before it in matters of state, the King and the royal family excepted. This restriction, however, shall not apply to the royal princes if they are filling other posts than that of viceroy.

(i.) To revise the lists of temporary salaries and pensions, and make therein such alterations as may be necessary.

(k.) To choose five revisers, who shall, every year, examine the accounts of the state and publish printed extracts of them. The accounts shall, therefore, be transmitted to these revisers every year before the 1st of July.

(l.) To naturalize foreigners.

SECTION 76. Every bill shall first be proposed in the Odelsting, either by its own members or by the government, through a councillor of state. If the bill be passed it shall then be sent to the Lagthing, which shall either approve or reject it, and in the latter case return it with its objections. These shall be reconsidered by the Odelsting, which shall either reject the bill or return it to the Lagthing, with or without alterations. When a bill from the Odelsting has been laid twice before the Lagthing, and has been rejected a second time, the whole Storthing shall assemble and the fate of the bill shall then be decided by two-thirds of the votes. Three days at least shall elapse between each of these sittings.

SECTION 77. When a bill proposed by the Odelsting has been approved by the Lagthing, or the assembled Storthing, it shall be sent by deputies from both divisions of the Storthing to the King, if he be present, or otherwise to the viceroy, or the Norwegian government, requesting the King's approval.

SECTION 78. If the King approve of the bill he shall sign it, and it becomes a law. If he disapprove he shall send it back to the Odelsting, declaring that he finds it advisable at present to withhold his approval, in which case the bill must not again be presented to the King by the Storthing then assembled.

SECTION 79. If a bill be passed, without alterations, by three ordinary Storthings assembled after three consecutive elections, and separated by at least two intermediate Storthings, without any fresh resolution having been made by any Storthing in the interval between the first and the second approval, and if it then be presented to the King with the request that His Majesty should not withhold his approval of a bill which the Storthing (after the most mature deliberation) has considered advisable it shall become a law, even if it has not obtained the King's approval, before the adjournment of the Storthing.

SECTION 80. The Storthing shall continue to set so long as it considers it necessary; but not longer than two months without the King's permission. When it has concluded its deliberations, or having assembled for the prescribed term the Storthing be

adjourned by the King, he shall then communicate his resolution regarding the bills not yet decided on, by either approving or rejecting them. Every bill not expressly approved by him shall be considered rejected.

SECTION 81. Every law shall be published in the Norwegian language, and in the King's name, (those mentioned in section 79 excepted,) under the seal of the kingdom of Norway, and in the following terms:

"We, N. N., make known: Whereas the resolution of the Storthing bearing the date of N. N. has been presented to us with these contents, (here follow the resolutions,) we have approved and confirmed, as we hereby approve and confirm it as a law, under our hand and the seal of the kingdom."

SECTION 82. The King's approval shall not be required for those resolutions of the Storthing by which it—

(a.) Declares itself assembled as a Storthing according to the prescriptions of the constitution.

(b.) Determines the rules of its proceedings.

(c.) Approves or rejects the power of the present members.

(d.) Confirms or rejects decisions concerning controversies at the elections.

(e.) Naturalizes foreigners.

(f.) And finally, to resolutions by which the Odelsting impeaches councilors of state or others.

SECTION 83. The Storthing may require the opinion of the supreme court on legal matters.

SECTION 84. The sittings of the Storthing shall be public, and its proceedings shall be printed and published, except in such cases where the majority shall decide to the contrary.

SECTION 85. Whosoever obeys a command which tends to disturb the liberty and safety of the Storthing, shall commit treason against his native country.

D.—THE JUDICIAL POWER.

SECTION 86. The members of the Lagthing together with the supreme court shall form the high court of the kingdom, (rigsret,) which shall pronounce final sentence upon all cases of prosecution brought by the Odelsting upon members of the council of state, or by the supreme court, for crimes of official commission.

The president of the Lagthing shall take the chair of the rigsret.

SECTION 87. The accused may, without assigning any reason, challenge one-third of the members of the rigsret; provided, however, that the court shall consist of at least fifteen members.

SECTION 88. The verdict of the supreme court shall be final. It must not consist of less than one president and six assessors.

SECTION 89. The supreme court, together with two superior officers appointed by the King, shall, in times of peace, be the second and final appeal in all courts-martial which may affect either life, honor, or imprisonment for more than three months.

SECTION 90. Sentences passed by the supreme court shall in no case be appealed or revised.

SECTION 91. No person shall be appointed member of the supreme court who has not attained the age of thirty years.

E.—GENERAL PROVISION.

SECTION 92. Government offices shall be conferred on those Norwegian citizens only who confess the Evangelical Lutheran religion, who have sworn allegiance to the constitution and the King, and who speak the language of the country, and—

(a.) Who were born in the country, of parents who were then subjects of the state.

(b.) Or were born in foreign countries of Norwegian parents, who were not at that time subjects of any other country.

(c.) Or who were settled in the country on the 17th May, 1814, and did not refuse to take the oath for maintaining the independence of Norway.

(d.) Or who shall continue to reside in the country for ten years.

(e.) Or who become naturalized by the Storthing.

Foreigners, however, may be made professors at the university and the public Latin schools, physicians, and consuls in foreign countries. No one can be appointed chief magistrate before he has attained the age of thirty years; and magistrates, judges, and sheriffs must have reached the age of twenty-five years.

SECTION 93. Norway shall only be liable to pay its own national debt.

SECTION 94. A new general, civil, and criminal code of laws shall be made at the first, or, if not practicable, at the second ordinary Storthing.

The laws of the country now in force shall meanwhile be valid; provided they be not repugnant to this constitution or the temporary resolutions which may be published. The permanent taxes now in force shall equally be valid until the next Storthing.

SECTION 95. No dispensations, or any other exemptions from law, shall be granted when the new general code of laws has been published.

SECTION 96. Every one shall be judged according to the law, and they shall be punished by law after sentence has been passed.

Examination by torture shall not take place.

SECTION 97. No *ex post facto* law shall be passed.

SECTION 98. Taxes to the treasury shall not be paid at the same time as fees to the court officers.

SECTION 99. No person can be arrested except in such case and manner as is prescribed by the laws. Those who order an unauthorized arrest, or are guilty of illegal delay, shall be responsible to the arrested.

The government shall have no power to use military force against the citizens, except in accordance with the provisions of the laws, unless any assembly should disturb the public security, and refuse to disperse immediately on the riot act having been audibly read to them three times.

SECTION 100. There shall be liberty of the press. No person shall be punished for any writing, whatever its contents may be, which he may have caused to be printed or published, unless he have willfully and evidently broken the laws, or advised others to do so, or disregarded religion, decency, or the constitutional powers, resisted their orders, or been guilty of calumny or defamation.

Freedom of speech shall be granted to all, with respect to the government and other matters.

SECTION 101. New and permanent restrictions connected with free trade shall not be granted to any one in future.

SECTION 102. Domiciliary searches shall not be allowed, except in criminal cases.

SECTION 103. Places of refuge shall not be granted in future to bankrupts.

SECTION 104. Real and personal property shall in no case be confiscated.

SECTION 105. If it be necessary for the welfare of the state that any one shall give up his real and personal property to the public, he shall have full compensation from the treasury.

SECTION 106. Purchase money, and revenues of properties bequeathed to the clergy, shall be exclusively employed for the benefit of the clergy and the promotion of public education. The funds of charitable institutions shall solely be employed for their benefit.

SECTION 107. The allodial privileges shall not be abolished. The first or the second Storting shall fix the conditions of such privileges as shall remain in force and be of the greatest benefit to the country and the inhabitants of the rural districts.

SECTION 108. Neither counts' or barons' estates, nor any other entailed family estate, shall be founded in future.

SECTION 109. All citizens shall generally be bound to defend their native country for a certain time, without regard to birth or fortune. The first assembled ordinary Storting shall decide on the right application of this rule, and affix the restrictions to which it shall be subjected, due information having been previously received by a committee. It shall also decide whether it be serviceable to the country that the duty of bearing arms shall cease when a citizen has attained the age of 25 years. Meanwhile the prescriptions now in force shall remain valid.

SECTION 110. Norway shall keep its own bank, its current-money, and coinage system. These institutions shall be fixed by a law.

SECTION 111. Norway shall have the right to use its own flag for merchant vessels. The naval flag shall be a union flag.

SECTION 112. If experience should prove the necessity of an alteration in any part of the constitution of the kingdom of Norway, the proposal shall be made at the first ordinary Storting after a new election and be printed and published. But the question of carrying the proposed amendment shall be decided by one of the ordinary Storthings after a new election. Such an amendment, however, must never contradict the principles of this constitution, but only modify some of its points in such way that the character of the constitution be not changed. The amendments shall be carried by two-thirds of the members of the Storting.

Christiania, at the extraordinary meeting of the Storting, on the fourth day of November, in the year of our Lord one thousand eight hundred and fourteen. [78 signatures.]

ACT OF UNION,

Established between the Storting of the kingdom of Norway, and the Diet of the kingdom of Sweden, determining the constitutional relations between the two kingdoms.

We, Charles, by the grace of God, King of Sweden and Norway, the Goths and the Vandals, &c., &c., Duke of Schleswig-Holstein, the Stormarn and the Dithmarsk. Count of Oldenburg and Delmenhorst, &c., &c., make known:

Whereas, the Storting of the kingdom of Norway, and the Diet of the kingdom of

Sweden, in accordance with our gracious proposals, have agreed on and resolved, in order to determine the constitutional relations between Norway and Sweden, to make a special act of union, as here exactly and literally follows:

We, the undersigned, representatives of the kingdom of Norway, assembled in Christiania at an extraordinary meeting of the Storthing, and we, the Diet of the Kingdom of Sweden, counts, barons, bishops, knights and nobles, clergy, citizens, and common people, now assembled here in Stockholm, at an extraordinary meeting of the Diet, make known:

Whereas, by the help of God, a union has been successfully established between the people of Scandinavia, and as it shall be maintained by mutual recognition of the legal rights of the people for the protection of the two thrones, and also, as it was established by voluntary conviction and not by arms, and whereas we, the undersigned states of the kingdom of Sweden, (on occasion of His Royal Majesty's gracious proposal of 12th April last concerning the new constitutional relations established between Norway and Sweden,) have recognized and unanimously confirmed all points in the constitution of the kingdom of Norway of the 4th November, 1814, regarding these constitutional relations, which, while we reserve our constitutional rights in those points, will involve alteration or modification in the constitution of the kingdom of Sweden, have, on the 10th November, been accepted and sworn to by our most gracious Lord and King; we, the lawful representatives of the inhabitants of Norway and Sweden, can find no worthier or more solemn way of ratifying and permanently establishing the union formed between Norway and Sweden under one King, (but with different governments and laws,) than by consenting thereto, and constituting the said condition into a special act of union, such as is hereby literally subjoined and follows:

SECTION 1. The kingdom of Norway shall be a free, independent, indivisible, and inalienable country, united with Sweden under one King. Its form of government shall be monarchical, limited, and hereditary.

SECTION 2. The order of succession to the throne shall be descending and agnatic, such as is provided by the order of succession of the 26th day of September, 1810, passed by the Diet of the kingdom of Sweden and sanctioned by the King.

Among those entitled to succession are also counted those who may be born after their father's death, and who will immediately assume their place in the hereditary line.

When a prince entitled to succeed to the united crowns of Norway and Sweden is born, his name and the time of his birth shall be announced to the next Storthing and be registered on its records.

SECTION 3. If no prince entitled to succession exist, and an election of a successor must be held in both countries, the Storthing in Norway and the Diet in Sweden shall be convoked on the self-same day.

The King, or (if such election occur during the vacancy of the throne) the legal government ad interim of both countries, shall, on the same day and in both places, make proposal concerning the succession. This must take place within eighteen days subsequent to that on which the Storthing in Norway and the Diet in Sweden were lawfully opened.

The members of the Norwegian Storthing and the Swedish Diet shall have power to propose a successor. If any intend to do so, his proposal must be made within the prescribed time.

The Storthing of Norway and the Diet of the kingdom of Sweden shall thereupon fix separately the day of election; but the election of the successor shall of necessity take place no later than on the twelfth day after that prescribed for the proposal.

On the day previous to that fixed for the election by the Storthing of Norway and the Diet of the kingdom of Sweden, the Storthing of Norway and the Diet of the kingdom of Sweden shall choose (from among their own members) a committee, who (in event of the choice falling on different persons) shall be charged to meet on behalf of the representatives of both countries, to decide by vote the choice of one person.

The Storthing of Norway and the Diet of the kingdom of Sweden, on the day fixed for the election, in accordance with the rules prescribed in the constitutions of both countries, shall each select one from the proposed candidates.

When the choice of both countries falls upon the same person, he shall be lawfully elected successor to the throne. If, on the contrary, each country should have elected a different person, the question shall be decided by the votes of the combined committees of both countries.

This committee shall consist of thirty-six persons for each country and eight deputies, elected in the way specially prescribed by the Storthing of Norway and the Diet of the kingdom of Sweden. The deputies shall enter upon service in stated order, but only in event of any of the regular members being absent at the election.

Carlstad shall be the place where the committees of both countries shall meet. Before each committee leaves the place where the Storthing in Norway and the Diet in Sweden are assembled, they shall elect a chairman from among themselves.

The King, or, in case of his death, the legal government ad interim of both countries

shall, within the shortest possible time, (after having been informed of the choice of both countries, and duly considering the distances between the places where the Storting in Norway and the Diet in Sweden are held from the place of meeting,) fix the day on which the committees of both countries shall meet at Carlstad. This shall not be later than twenty-one days after that day prescribed above and named as the latest election period for the Storting of Norway and the Diet of the kingdom of Sweden.

The chairmen of the committees of both countries shall, immediately on their arrival, order them to assemble in the forenoon of the day next to that appointed for the arrival of the committees at the place of meeting.

When they are assembled, the chairman of each committee shall first read his own and his colleagues' full powers, whereupon both chairmen shall draw lots for the presidency at the election.

The combined committee for both countries, thus united under one president, (who also has a vote,) shall then, immediately, without any debate commence the voting.

The committee shall not separate, neither shall any member leave the room where they are assembled until the election be completed.

As each vote is given the chairman of the committee of either country shall read and exchange the document which contains the choice made by his committee. The proposal of voting shall then be recorded, and the names of both candidates be registered according to the following scheme:

"The deputies of the Storting of Norway and the Diet of the kingdom of Sweden shall vote together, in order to elect a successor to the united thrones of Norway and Sweden. The Storting of Norway has proposed N. N., and the Diet of the kingdom of Sweden has proposed N. N.

"If the majority of votes are in favor of N. N. he shall be lawfully elected to succeed the King (be King) on the united thrones of Norway and Sweden.

"Before summoning the votes, all the provisions relating to the manner of voting shall be distinctly and audibly read.

"The summons shall be given as follows: When the chairman of the combined committees is a Norwegian, the Swedish deputies shall be summoned first to vote; and that the Norwegians, and *vice versa* when the chairman is a Swede. The voting shall be made by slips of paper, exactly corresponding in size and appearance, on which the name of each candidate shall be printed in characters of equal size. The chairman who does not preside at the election shall sign the slips of paper before they be delivered to the deputies. These slips of paper, in order to be valid, shall be single, without any marks, and shall be shut up and folded together. A majority of one shall decide the election.

"Before counting the slips the chairman shall draw out one, seal it, and lay it aside. If on opening the slips, after the above summons, there should be found any which are not valid, according to the rules before mentioned, they shall be destroyed immediately.

"If the result prove to be an equality of votes, the sealed slip shall be opened and shall decide the election, provided it possesses the necessary qualifications.

"If it be not admissible, the whole proceeding shall be considered null and void, and a new voting shall take place immediately.

"If there be a majority without adopting this measure, the slip which was put aside shall be destroyed without being opened.

"The votes shall be recorded by the deputies themselves, in the Norwegian language if the chairman be a Norwegian, and in the Swedish language if he be a Swede. The record shall, immediately after the close of the poll, be loudly read and acknowledged; whereupon, two similar copies shall be made, be signed by the whole election committee before they separate, and sealed in their presence.

"They shall forthwith be dispatched, on the same day, by the chairmen of the committees of each country, one to the Storting of Norway, directed to its president, and the other to the Diet of the kingdom of Sweden, directed to the president of the nobility and to the other presidents.

"These records shall be signed in this manner: The copy which is sent to Norway shall be signed first by the Norwegian and then by the Swedish deputies; and the copy which is forwarded to the Diet of Sweden shall be first signed by the Swedish and then by the Norwegian deputies.

"On the arrival of this election act at both places, it shall directly, or at latest on the following day, be reported to the Storting in Norway, and to the Diet in Sweden. And the Storting of Norway and the Diet of the kingdom of Sweden shall immediately take care that this resolution of the representatives of both countries be communicated to his royal highness; or, if he be dead, to the lawful government *ad interim*."

SECTION 4. The King shall have power to gather troops, commence war, and conclude peace, to enter into and dissolve alliances, and to send and receive ambassadors.

When the King proposes to declare war, he shall communicate with the government in Norway, who will pronounce its views on the subject, and also furnish a complete

report of the financial state of the country, its means of defense, and other matters. When this has been done, the King shall form an extraordinary council of state, consisting of the Norwegian minister of state and the Norwegian councilors of state, together with those of Sweden, and he shall then lay before them the grounds and circumstances of the case.

The report of the government of Norway on the state of that country, together with a similar one of Sweden, shall then be produced. The King shall require their opinion on these subjects, which shall be put down separately on the records by each of them, under the responsibility provided by the constitution. The King shall then have power to hold and execute the decision which he may think most profitable to the country.

SECTION 5. The Norwegian minister of state and the two Norwegian councilors of state who attend the King, shall have seats and deliberative votes in the Swedish council, when subjects concerning both countries are there discussed.

The opinion of the government in Norway ought also to be asked in such matters, unless they need to be decided on so quickly that there is no time for it. So often as matters concerning both countries are discussed in the King's presence, at the Norwegian council of state, whosoever assembled, three members of the Swedish council of state shall have their seats and vote there.

SECTION 6. When the King dies and the successor to the throne is not yet of age, the Norwegian and Swedish councils of state shall be immediately convened, in order to call together the Storting in Norway, and the Diet in Sweden.

SECTION 7. Until the representatives of both countries be assembled, and until they have arranged the government during the minority of the King, a council of state, composed of an equal number of Norwegian and Swedish members, shall take charge of the administration of both countries, duly observing their respective constitutions, and under the name of the government ad interim of Norway and Sweden. This united council of state shall consist of ten members from each country, viz: From Norway, the Norwegian minister of state and the two councilors of state who reside in Stockholm, together with seven real or specially appointed councilors, (who, in the event of a vacancy to the throne, or during the King's minority, shall be elected by the government in Norway, from among their own members,) in whose place at least three councilors shall be appointed, ad interim; and from Sweden, the two ministers and eight councilors of state.

Both the Norwegian and Swedish cases shall be prepared and examined according to the prescribed law of both countries.

The Norwegian cases which transpire during the government ad interim shall be reported, registered, and dispatched in the Norwegian language by the Norwegian minister of state, and the Swedish cases shall be reported, registered, and dispatched in the Swedish language by the official to whose department they belong.

Cases which concern both countries, and which from their nature do not belong to any special department, shall be reported by the minister of state for foreign affairs, and be dispatched to each country in their own language, to Norway by its minister of state, and to Sweden by the official above mentioned.

Diplomatic matters shall also be reported by the minister of state for foreign affairs, and registered on special records.

The cases shall be decided by a majority, and if the votes be equal the decision rests with the chairman.

All the resolutions that are passed shall be signed by all the members.

The combined council of state (the government ad interim) shall meet at Stockholm.

At the first meeting of both councils of state the Norwegian and the Swedish state ministers shall draw lots who shall first be chairman. This order being established, the chairman shall be changed every eight days, so that each minister of state shall be chairman in succession for one week only.

In all cases when, in accordance with the constitutions of Norway and Sweden, the countries shall be governed by the council of state, the councils of state of both countries shall meet in equal number, and in the way above mentioned.

SECTION 8. The choice of the guardians, who shall govern on behalf of the King during his minority, shall be made according to the same rules and in the same manner as has already been provided in section 3 regarding the election of a successor to the throne.

SECTION 9. The Norwegians who, in the cases above mentioned, shall be invested with government, shall take the following oath before the Norwegian Storting: "I do promise and swear to govern in accordance with the constitution and the laws, so help me God and his holy word."

The Swedes shall take the oath before the Diet of the kingdom of Sweden.

If the Storting or the Diet be not assembled at that time, the written oath shall be deposited with the council of state, and repeated at the next Storting or Diet.

SECTION 10. The direction of the King's education, during his minority, shall be fixed in the way mentioned in section 8.

It shall be an unalterable rule that the King shall be sufficiently instructed in the Norwegian language during his minority.

SECTION 11. If the royal male line has become extinct, and no successor to the throne has been elected, a new royal lineage shall be chosen in the way mentioned in section 3.

SECTION 12. As the provisions contained in this act of union are partly copied from the constitution of the kingdom of Norway and partly additions to it, founded on the authority given by the constitution to the now assembled Storting, they shall, as concerns Norway, be established and continue as valid as the constitution of this kingdom, and they shall not be altered except in the way prescribed in section 112.

For further security, having decreed and resolved all the foregoing, we, the Storting of the kingdom of Norway, and we, the Diet of the kingdom of Sweden, have established and confirmed this act of union with our signatures and our seals, which was made in Christiania, on Monday, the thirty-first day of July, and in Stockholm on the sixth day of the month of August, in the year of our Lord one thousand eight hundred and fifteen.

[557 signatures.]

We are pleased hereby to accept, confirm, and establish the said act of union, with all its articles, points, and clauses.

We also graciously command and ordain, that all who are bound to us, our successors, and the kingdom by oaths of allegiance, do acknowledge, observe, and obey this act of union. For further security we have signed and confirmed these presents with our own hand, and have caused our royal seal to be affixed thereto, which was done at our residence, the city of Stockholm, on the sixth day of the month of August, in the year of our Lord one thousand eight hundred and fifteen.

CHARLES.

SWITZERLAND.

No. 388.

Mr. Rublee to Mr. Fish.

No. 36.]

LEGATION OF THE UNITED STATES,
Berne, February 1, 1871. (Received February 18.)

SIR: The French army of the East, or what remains of it, its retreat being cut, and finding itself destitute of supplies, crossed the Swiss frontier, in the neighborhood of Pontarlier, this morning, and laid down its arms. General Bourbaki, its late commander, is reported to be dying from a wound inflicted by his own hand some days since, designed to terminate his life. The Swiss general-in-chief, Herzog, reports the number of the French prisoners thus suddenly thrown upon Switzerland at eighty thousand, or, perhaps, rather more. The federal council are making arrangements for their internment. They are to be apportioned to the different cantons, the quota of the canton of Berne being twenty thousand five hundred. The war has already imposed burdens that are serious to be borne by so small a country as Switzerland, and this event will, for the present, materially add to their weight. They are, however, cheerfully met by a brave, patriotic, and intelligent people, who shrink from no sacrifice that is essential for the preservation of their independence.

The Swiss army now occupying the northwestern frontier, along the line of the Jura, numbers about thirty thousand men.

The news of the armistice recently arranged between the members of the government of the national defense at Paris and the Emperor of Germany, notwithstanding the deep sympathy which is felt for France at

the present moment, was received here with much satisfaction, since it was generally regarded as the preliminary step to a conclusion of the war. It appears, however, that a strong disposition is manifested in many quarters of France, and especially in those which have, as yet, remained unvisited by the actual horrors of war, to reject the armistice and to adhere to Mr. Gambetta's policy of war *à outrance*. Thus that unhappy country is threatened with new distractions, and it is possible that the calamities of civil strife are about to be added to the ruin and humiliation brought upon it by a foreign invasion.

From the most trustworthy data I am able to obtain, I am firmly of the conviction that if the real voice of France could make itself heard it would pronounce decidedly in favor of peace, even though upon terms hard and humiliating. Whether that voice can be stifled and a contest of despair continued, in which there is no prospect of ultimate success to justify it, and which promises nothing but new, and, if possible, more frightful disasters, the unavailing slaughter of thousands of men and the devastation of still more cities and provinces, remains to be seen. During the past three or four months France has surprised the world by the rapidity with which she has called new armies into existence, but it would, perhaps, be erroneous to attribute her achievements in this regard to the patriotic fervor of the masses of her people. The government of the national defense inherited the machinery of the empire. It found also a people with the habit of obedience of yielding readily to whatever person or persons the vicissitudes of the time might bring into authority. The new levies answered promptly to its call when summoned. Thus it was a comparatively easy task to place in the field armies imposing in point of numbers, however deficient in other vital respects. But it was quite another thing to breathe into them that ardor and frenzy of patriotic enthusiasm which have sometimes enabled a people, accustomed to liberty and fighting in self defense, victoriously to confront superior numbers and organization. Thus the French armies have been scattered as rapidly as they have been organized. With many individual exceptions, of course, there has been a lack of zeal and steadfastness among the soldiers, while no happy inspirations of genius seem to have visited their commanders. Moreover, both the armies and the people have been constantly fed upon delusions. False reports from Paris have stimulated the courage and the hopes of the provinces, and false reports from the provinces have stayed up the faltering resolution of Paris to the hour when surrender became inevitable. With the fall of Paris it will be necessary to abandon this system; at least it will become, in a great measure, impracticable to continue it. A large body of German troops will be released for other operations, and it is quite improbable, whatever may be the present inclinations of the people of cities like Bordeaux, Lyons, and Marseilles, that the war can be renewed upon any large scale. The great mass of the rural population want peace.

During the later stages of the contest, the sympathies of the Swiss people, at first largely enlisted on the side of the Germans, have turned strongly in favor of France. Commiseration for her misfortunes, the hope, though clouded by many doubts, of witnessing the successful establishment of republican institutions in that country, and apprehensions respecting the ulterior designs of those who bear a leading part in accomplishing the unity of Germany, have united to produce this change. There have not been wanting fears that in the intoxication likely to follow such unexampled successes as have attended the German armies, the absorption of the German-speaking cantons of Switzerland might be

regarded as essential to German unity. Some manifestations of a desire to rectify the boundaries of Baden by acquiring certain small bits and savages of Swiss territory lying on the right bank of the Rhine and including the city of Schaffhausen, have created more or less uneasiness as to the future policy of the new German empire. The subject has given rise to some discussions in the public journals, but I think no serious apprehensions respecting it are at present entertained in government circles here.

I am, &c.,

HORACE RUBLEE.

P. S.—I have received some additional particulars respecting the surrender of the French troops on the frontier this morning. They are under the command of General Clinchaut. Only a part of the troops have yet crossed the frontier, but the whole force is to cross and lay down their arms in pursuance of a convention concluded between General Clinchaut and General Herzog, the Swiss commander, at 5 o'clock this morning.

The number of French troops who thus surrender is 84,900. They are to be interned in the several cantons as follows: Zurich, 11,000; Berne, 20,000; Lucerne, 5,000; Uri, 400; Schwytz, 1,000; Obwalden, 400; Midwalden, 300; Glarus, 1,000; Zug, 700; Fribourg, 4,000; Solothure, 3,000; Baleville, 1,500; Bale Campagne, 1,500; Schaffhausen, 1,200; Appenzell, R. E., 1,500; Appenzell, R. L., 200; St. Gall, 7,000; Grisons, 1,000; Argovie, 8,800; Thurgovie, 3,900; Vaud, 8,000; Valais, 1,000; Neuchâtel, 1,000; Geneva, 1,500.

No. 389.

Mr. Rublee to Mr. Fish.

No. 48.]

LEGATION OF THE UNITED STATES,

Berne, May 25, 1871. (Received June 14.

SIR: I have the honor to submit the inclosed correspondence with the federal council of Switzerland on the subject embraced in your dispatch No. 13, of the 13th of June, 1870. The delay in the response of the federal council is the result of its preoccupation with the events and consequences of the recent European war. The *brochure*, referred to several times in the report of Mr. Feer-Herzog, which accompanies the reply of the federal council, was transmitted by me to the State Department with my No. 22, of the 24th of August last.

I am, &c.,

HORACE RUBLEE.

Mr. Rublee to Dr. Dubs.

No. 15.]

LEGATION OF THE UNITED STATES,

Berne, July 5, 1871.

The undersigned, minister resident of the United States of America in Switzerland, begs leave to transmit to his excellency the President of the Swiss confederation, in chief of the political department thereof the inclosed copy of a dispatch from the Secretary of State of the United States respecting the adoption of a common unit and standard of an international gold coinage. I am therein instructed to say that the Government of the United States, at the request of the Senate, invites the government

of Switzerland to express its views upon the subject in question, with the purpose of promoting the adoption of such a common unit and standard; and, further, that the President of the United States will deem it his duty, under the resolution of the Senate requesting him to invite this correspondence, to transmit to that body any communication which the government of Switzerland may be pleased to make in relation thereto.

The undersigned seizes this occasion to renew to your excellency and to the high federal council the assurances of his highest consideration.

HORACE RUBLEE.

[Translation.]

BERNE, May 17, 1871.

With the note which the minister resident of the United States addressed to the federal council on the 5th of July, 1870, he transmitted a copy of a paper from the minister of foreign affairs concerning the unification of gold coin and invited the council to communicate to the Government of the Union its opinion upon this important question, with the object of effecting the earliest possible solution of it. The federal council has, in consequence, the honor to transmit herewith to Mr. Horace Rublee a copy of a report on this subject made to the federal department of finance by Mr. Feer-Herzog, of Aarau, a member of the national council and a man extremely well versed in the question. The federal council will unite with pleasure in the efforts which are the subject of the Senate resolution of the 1st of February and of Mr. Fish's dispatch of the 13th of June, 1870. However, it must be observed that the council does not perceive any possibility of a solution in the system No. 2, (Kelly-Elliot,) explained in the dispatch, and that the mere monetary approximation, (rapprochement,) which is the purpose of system No. 3 of the dispatch, will not, in the judgment of the federal council, produce the useful results which the author of the dispatch seems to anticipate from it; that, hence, the federal council recommends to the very serious attention of the Government of the United States system No. 1, monetary unification by means of simple equations between the principal existing types, conformably to the plan of the conference of 1867 and to the bill introduced in Congress by Mr. Hooper. In conclusion, Switzerland must occupy the special position imposed by the monetary convention of 1865, and which does not permit her to act definitely except in concert with her present monetary allies. The federal council renews, &c.

In the name of the federal council,

SCHENK,
President Swiss Confederation.

The Vice-Chancellor, I. KERN GERMAN.

[Translation.]

Report to the federal department of finance on the American dispatch of June 13, 1870, relative to monetary unification.

The events of the war will probably explain to you why I have so long delayed the submission of the opinion which you have requested on the dispatch of Mr. Hamilton Fish, dated June 13, 1870, relative to monetary unification, and transmitted to the federal council by Mr. Rublee on the 5th of the following July.

The step of Mr. Fish is a consequence of the invitation addressed to Mr. Grant by the Senate of the United States to enter into correspondence with foreign powers for the establishment of a common unit and an international coinage. Having already announced this step in a brochure that I published in May, last year, under the title, "*La France et ses alliés monétaires*," (see page 17.) in which I considered the questions treated of in the dispatch of the United States, I think I may abbreviate by referring to the said work for a more extended development of the subject, and confine myself to the succinct exposition which follows:

The American dispatch is not limited to asking the opinion of the governments to whom it is addressed, but it sets forth at the same time the conditions to which a common coinage should conform.

1st. That it must not vary, or as little as possible, from the existing coinage of the United States.

2d. That it must be acquiesced in by Great Britain and by the countries that have adopted the franc of France.

3d. That gold must be made the sole standard, and that the double standard must be discarded.

The dispatch then proceeds to elucidate the several systems which seem to be more

or less adapted to realize this programme in a manner more or less complete, and to some extent indicates an opinion upon them. These systems are—

I. That of the conference of 1867, which consists in taking as a common denominator the gold value of the 5-franc piece, (1.4561 grains, pure gold, or 1.6123 grains, gold of nine-tenths fineness,) and to effect some slight modifications in the unit of other nations. The modifications required would be a diminution of $3\frac{1}{2}$ per cent. in the American dollar, making it the equivalent of the 5-franc piece; a diminution of .008 in the English sovereign, making it the quintuple of 5 francs; an augmentation of 1 per cent. in the Austrian florin, making it equivalent to one-half of 5 francs; finally, Germany, conformably to the propositions of her *Handelstag*, would adopt a florin similar to that of Austria. The international coinage would then be represented by—1st. In France, a 25-franc piece; in England, a sovereign; in Germany and Austria, a 10-florin piece; in the United States, a half eagle, or \$5; all identical in value, in weight, and alloyage. 2d. By the multiples and submultiples of these pieces. This system, warmly recommended by Mr. Ruggles, commissioner of the United States at the conference of 1867, forms the basis of a bill introduced in Congress by Representative Hooper, of Massachusetts. Mr. Fish, however, alleges that the modification of the dollar contemplated by this system is so considerable that the Government of the United States cannot resolve upon it until first satisfied that Great Britain will make a corresponding modification in the sovereign.

II. The Kelly-Elliott system is mentioned in the second place. The American dollar contains 1.5046 grains fine gold. Messrs. Kelly and Elliot propose to reduce it to 1.500 grains, an insignificant change, which would give the dollar a round number in grammes of fine gold. This modification would produce the equation upon which the authors of the plan so much rely: \$20 = 3 German crowns. By increasing the franc about 3 per cent., and the pound sterling $2\frac{1}{2}$, we should again have equality between \$20, 100 francs, and 4 sovereigns. A bill embodying this system has been introduced in Congress by Mr. Kelly, but that body has not yet taken action either upon it or the concurrent bill of Mr. Hooper.

III. The author of the American dispatch, appearing to think that the second system demands too large an augmentation of the franc and the sovereign to be relished in France and England, just as he himself shrinks from the diminution of the dollar proposed by the conference of 1867, asks if it is not possible to realize, up to a certain point, the advantages of a common coinage, without wholly abandoning special coinages, and he thinks this result may be obtained, without sensibly changing existing coinages, by establishing a common measure or divisor of these coinages. This divisor would be the decigramme of pure gold. The fractions of decigrammes in each special coin would be dropped, and such coin henceforth would be made to contain a certain weight of fine gold reckoned in round decigrammes. The half-eagles, or \$5, would be reduced from 75.232 to 75 decigrammes, &c. (See page 11 of the dispatch.) The decigramme would then be a common normal measure. The number of decigrammes of fine gold which they (the coins) contained would be indicated upon the exterior of the pieces, and the reciprocal value of coins, in international exchanges, would be determined by the decigrammes of fine gold that they represented.

Before pronouncing upon these three propositions, I ought to remark that the dispatch in a memorandum annexed classes the countries in which the dollar, the franc, and the sovereign are employed, in a manner altogether arbitrary. It enlarges the domain of the sovereign by assigning to it the East Indies, which have the rupee and not the sovereign; and China and Japan, where the sovereign does not exist, under the pretext that most of the drafts drawn upon Europe in those countries are expressed in pounds sterling. In order not to lessen the dollar, he adds also China and Japan to the domain of the latter, on the pretext that the Mexican piastre, closely approximating to the dollar, is the denomination in use in the seaports of those countries. Finally, he adds Germany and Austria as having a like system, which is incorrect. I oppose, on my part, to this comparative table that of another American, Mr. Ruggles, reproduced on page 80 of my brochure, and which, properly leaving Asia out of the question, as having nothing to do with the comparison, proves that, in respect to population, to existing currency, and to international commerce, the group of the franc of France is by much the more considerable. I propose that the federal council call the attention of the Government of the United States to this table, (extract from a brochure, entitled *International Coinage*, by Samuel B. Ruggles, 1870, New York, and prepared by the author from figures furnished him by the English board of trade.)

The showings of this table explain why the governments that have adopted the French franc are expecting other peoples to approximate to the franc rather than they, themselves, to approximate to a foreign unit. The gold coins of the French system are the most numerous, the most generally diffused, and the most acceptable. The sovereign requires much less change to adapt itself to the franc than to conform to the dollar, as proposed by the Kelly system. The monetary system of Germany is on the eve of being reformed, and the most popular and most national reform, that which preserves the small German units of reckoning, (page 22 of my brochure,) is its adaptation

to the franc by means of the florin of the value of francs 2.50. It is true that to make the American dollar equivalent to 5 francs requires a diminution of about 3 per cent. in the dollar. But this reduction would not cause serious inconvenience, as the dispatch alleges, (page 5,) to the American people, because all existing credits would be reduced proportionately to the change in the dollar, and the price of commodities raised in consequence. Finally, the gold coinage of the United States has been attended by a profit, the mint tax being $\frac{1}{4}$ per cent. The withdrawal of the existing gold coin would not, then, cause any loss to the State in respect to the expense of mintage; neither would there be any loss on account of wear, the present monetary laws of the United States not requiring the Government to withdraw gold coin depreciated in that manner. The demonetization, then, of the coin now in circulation will produce no loss to the Government, because the pieces may be withdrawn upon paying to the holders the weight value. Finally, the great part of the business transactions within the country, having for a long time been carried on in paper dollars, of a varying value, the fixity of value of the gold dollar does not possess for the habitudes of the citizens of the United States the signification which the fixity of the monetary unit would have in countries with an exclusively metallic circulation, that is to say, where a legal tender in paper does not exist. The Kelly-Elliott system, that the American dispatch places by the side of that of the conference of 1867, belongs in the category of those that would, at any price, establish monetary unification upon a quantity of gold capable of being metrically expressed without running into a fraction. I object to it, in the first place, that if the dollar can, without any inconvenience whatever, be reduced to 18.500 fine gold, its *rapprochement* to the other types will not be thereby further advanced. The equation, 30 grammes fine gold = \$20 = three German crowns, which constitutes the great argument of the authors of this system, does not produce monetary unification at all, since the German crown, despite this equation, will never be divisible by the dollar. Moreover, this crown, (10 grammes of fine gold alloyed to nine-tenths,) created by the convention of 1857, is a coin that has no commercial role, since it does not harmonize with the currency in usage on the continent, and is condemned by a majority of German authors. It would need to become the basis of the new German system to give any value to its relation with the dollar, and in spite of the recommendations of some theorists, there is very little probability that Germany will adopt a unit which is worth 34.44 francs, or 9 thalers and 9 silbergroschen, and the decimal subdivision of which would never conform to the subdivision of the thaler or the florin, which would destroy all connection with the ancient monetary systems, and oblige the public to guess the values of things, or to reckon by means of factors entirely new to it. Finally, it seems impossible that the pound sterling should be augmented by $2\frac{1}{4}$ per cent., the franc by $3\frac{1}{4}$, in order to conform to the Elliott equation: \$20 = 100 francs = 4 pounds. For, it must be observed, it is easier to effect an adaptation by a diminution of the existing unit, it being exceedingly difficult to accomplish it by increasing those units. I propose, then, to the federal council, the categorical rejection of the Kelly-Elliott combination. The third system mentioned in the dispatch remains to be considered. I freely concede that the point of view which forms the basis of this system is very reasonable. In case a veritable unification be impossible, if the Englishman will not renounce his sovereign, the Frenchman his franc, the American his dollar, and if each refuse to adopt the modifications necessary to render his type the equivalent, the multiple or the submultiple of the others, a relative progress would be attained in finding a common measure, and it seems, indeed, by the table on page 11 of the American dispatch that, with slight changes, the decigramme of fine gold would furnish each a common measure. The governments having once adopted it, the decigramme of fine gold contained in each coin, as indicated on it, would supply the necessary means of reduction required for their circulation and change. Unfortunately, this proposition, just in theory, loses its greatest value as soon as it is brought into practice. Coins are not composed of fine, but alloyed gold. If the half-eagle be reduced to 75 decigrammes of fine gold, and the Napoleon to 58, these round figures again become fractional when a ninth of alloy is added in order to secure the standard termed nine-tenths. It follows that the verification by weight is no longer practicable, and that the simple comparison derived from the inscription of the decigrammes of fine gold cannot be established by weighing. Everybody will agree that the absence of such a test forms a capital objection to system No. 3. This objection is so much the more grave since the coins composing the table on page 11 of the American dispatch are quite differently alloyed, viz:

The English sovereign and the Russian imperial.....	916
The Napoleon, American, eagle and German crown	900
The Friedrich d'or of Prussia	896
The old doubloon of Spain.....	875

And it is evident that with such divergences the verification of the weight of the coins in fine gold would become so complicated that the quantity on which the system

reposes would prove illusory. In order to attain the character of surety essential to the success of the system, the weight even of the coin should coincide with its inscription. In other words, it would be necessary that the common measure, which the plan seeks to find in the decigramme of fine gold, should be the decigramme of an alloyage universally adopted, that of nine-tenths for example. The governments disposed to agree in this respect would then be obliged—(a.) To adopt the alloyage of nine-tenths if they did not already employ it; (b.) To suppress the fractions of decigrammes in the weight of their coins expressed in decigrammes of nine-tenths fineness. In this case The Napoleon, of nine-tenths, and weighing 64.516 decigrammes, would be diminished by

Half-eagle, weighing 83.570, would be diminished by	.0014
The sovereign, changed to nine-tenths, weighing 81.360, would be diminished by	.007
The Russian half-imperial, weighing 66.652, would be diminished by	.0044
	.010

Thus the reductions become more considerable than is calculated in the table on page 11 of the dispatch, and nearly average those imposed by the conference of 1867. We have, then, the choice, at the cost of derangements and modifications that are not far from equal, between a scheme which would produce these relations:

$$\text{Decigramme } 10 = \frac{20 \text{ frs.}}{64} = \frac{\$5}{83} = \frac{1 \text{ sovereign}}{81} = \frac{\text{half-imperial}}{66}$$

or, the equation which would result from the plan of the conference of 1867, as follows:

$$25 \text{ frs.} = \$5 = 1 \text{ sovereign}; \text{ and } 20 \text{ frs.} = 5 \text{ rubles.}$$

The simplicity of these last relations is such that I think this plan merits the preference, in view of its convenience for calculations. But it merits it, above all, for the reason that it allows the creation of international types, having everywhere legal circulation, while it is impossible to produce such types under the system No. 3.

Please to accept, &c., &c.

No. 390.

Horace Rublee to Mr. Fish.

No. 49.]

LEGATION OF THE UNITED STATES,
Berne, May 31, 1871. (Received January 15.)

SIR: The request of the French government that the fugitive members of the defeated party in Paris who may succeed in escaping into other countries shall not be regarded as political refugees, but be held and delivered up as culprits guilty of murder, arson, and robbery, coupled with the announcement that Belgium and Spain have resolved to accord no protection to this class of persons, but will promptly surrender them to the vengeance of their pursuers, has aroused much popular solicitude throughout Switzerland respecting the course which the government here would adopt. At Geneva, on Monday last, a call appeared addressed to all citizens who were in favor of maintaining intact the right of asylum to convene on the evening of that day and unite in an address to the Federal Council on the subject. This call was signed by the officers of the association, or society of the Grutli, a semi-political organization, and by those of the *Association politique ouvrier nationale*. The meeting was quite largely attended, those present and actively participating belonging, for the most part, to the laboring classes. Persons at the entrance of the hall in which the gathering took place distributed to all comers printed sheets containing a short address rather violent in its tone and strongly sympathizing with the communists. The proceedings, however, were orderly, and the address to the Federal Council which was adopted was respectful but earnest in its tenor. It denounced the action of "the monarchical governments of Belgium and Spain as trampling under foot the laws of neutrality heretofore observed

under similar circumstances, and called upon the Federal Council to receive the refugees coming from France, in consequence of recent events, as the victims of political misfortune, having the rights of asylum, to be sheltered from all attack and all possibility of extradition." In the meantime, however, the Federal Council had taken its decision. Its members, after due deliberation, determined that it was not consistent with the established policy of Switzerland to accede to the demand of the French authorities in the form under which it was presented. At the same time the government was prepared faithfully to execute the existing treaty with France for the extradition of fugitives from justice. It would not refuse the rights of asylum to persons charged with or guilty of merely political offenses, but would act on individual cases as they arose, holding in custody for a reasonable time persons whose extradition might be demanded by France, until it could be determined whether they could properly be classed in the category of ordinary criminals, or in that of merely political offenders. This decision appears to be well received by all classes of the Swiss people. The public journals of the country, as far as I have seen, without distinction of party, give it a cordial approval. At the same time many of them refer in no flattering terms to the course of Belgium and Spain. The *Bund*, probably the most widely circulated and influential of the Swiss journals, and, more nearly than any other, the organ of the present administration, speaks of them as having given "a promise of unconditional and unlimited aid to the government of Versailles in hunting down the fugitive communists of Paris," and declares that the action of the Federal Council affords "a gratifying contrast with the decision of the ultra-montane Belgium government, that stands ready, without further proof, to deliver up the communists in a lump to their executioners." In concluding an article on the policy adopted by Switzerland it uses this language:

In the street and barricade contests of Paris both parties have participated in the horrible devastation of the city. The combatant who defends himself with all the appliances at his command is not a mere ordinary criminal, no matter on which side he is engaged. On the other hand, those who, with diabolical premeditation, collected the means for a systematic devastation, and carried it into effect, are execrable criminals, and should be punished as such, since they acted not in mere self-defense, but in a desperate delight in murder and arson. The murderers of the unfortunate hostages, the people who saturated buildings with petroleum, and committed other similar acts, are criminals. Switzerland will not pollute her right of asylum by extending it to such as these; but to expel all other fugitive partisans of the commune on account of these assassins and incendiaries would be almost as equally disgraceful. The Federal Council, according to our view, will only act in harmony with the sentiments of the great majority of the people of Switzerland if, in deciding these extradition cases, it rigorously excludes all political considerations. The people of Switzerland do not wish to see the highest tribunal of their country either in the camp of the communists and internationalists, or in that of the reactionaries of Versailles.

A report was received yesterday that two prominent members of the party of the commune, Felix Pyat and Paschal Grousset, had succeeded in reaching Geneva. The French minister, the Marquis de Chateauneuf, immediately made a demand for their extradition, and the Federal Council issued an order for their arrest. Up to the present time no official news of their arrest has been received.

I am, &c.,

HORACE RUBLEE.

No. 391.

Mr. Rublee to Mr. Fish.

No. 53.]

LEGATION OF THE UNITED STATES,
Berne, July 5, 1871. (Received July 25.)

SIR: I have the honor to acknowledge the receipt of your dispatches to No. 45, inclusive.

I inclose herewith a copy of a note which I addressed to the President of the Swiss Confederation, communicating the substance of your No. 43 in regard to the protection of Swiss citizens, in certain cases, by the diplomatic and consular agents of the United States, together with the reply of the President, expressive of the gratitude of the Federal Council for the promptness with which the Government of the United States has complied with its wishes upon the subject in question.

I am, &c.,

HORACE RUBLEE

Mr. Rublee to the President of the Swiss Confederation.

The undersigned, minister resident of the United States, has the honor to inform you that he has acquainted his Government with the desire expressed by your excellency that the diplomatic and consular agents of the United States, in places in which there are no such representatives of Switzerland, might be instructed to extend protection to such citizens of Switzerland as may seek such protection. In reply I am notified by the Secretary of State of the United States that circular instructions, in compliance with the wishes of the government of Switzerland, will be addressed to the ministers and consular representatives of the United States, directing them to extend such protection.

The undersigned seizes the occasion to renew to your excellency and the members of the high Federal Council the assurances of his high consideration.

HORACE RUBLEE

[Translation.]

The President of the Swiss Confederation to Mr. Rublee.

The Federal Council has had the honor of receiving the note which Mr. Horace Rublee addressed to it on the 27th of June last, informing him that the Government of the United States of America has given to its diplomatic and consular agents, at places where Switzerland has no representatives, proper instructions that they may extend the protection to such Swiss citizens as may solicit it.

While thanking the minister resident of the United States of America for this communication, the Federal Council begs that he will convey, on its behalf, to the Government of the Union its sentiments of warm gratitude for the interest which it has taken in complying with the wishes expressed to it on this subject, and further avails itself of this occasion to renew to Mr. Horace Rublee the assurances of its high consideration.

In the name of the Federal Council,

SCHENK,
President of the Confederation.

No. 392.

Mr. Fish to Mr. Rublee.

No. 50.]

DEPARTMENT OF STATE,
Washington, July 18, 1871.

SIR: I transmit to you herewith the draught of a note,* which you will present to the government of the Swiss Confederation, requesting that

* For inclosure see page 451.

the President of that confederation will be pleased to appoint an arbitrator to form, with the arbitrators to be named by the President of the United States, by Her Britannic Majesty, and by the Emperor of Brazil, the tribunal of arbitration to which, in pursuance of the first article of the treaty signed at Washington on the 8th of May, of which a copy is sent to you herewith, the United States and Her Britannic Majesty have agreed that all the claims growing out of the acts committed by the several vessels which have given rise to the claims generically known as the "Alabama claims" shall be referred. You will arrange with your British colleague for the simultaneous presentation of your respective notes on this subject. You will not fail to draw the attention of the Swiss minister for foreign affairs unofficially to the last clause of the first article as to the period within which it is hoped that an arbitrator may be named.

I am, &c.,

HAMILTON FISH.

No. 393.

Mr. Rublee to Mr. Fish.

No. 52.]

LEGATION OF THE UNITED STATES,
Berne, July 3, 1871. (Received July 26.)

SIR: The ordinary summer session of the Federal Assembly of Switzerland commences to-day. The most important question likely to occupy the attention of the assembly is the proposed revision of the federal constitution. It is quite probable, however, that definite action upon it may be again postponed, and its consideration remitted to a special session during the coming autumn, at which no other business will be taken up.

During the interim between the last and the present session, two committees, one composed of members of the national council, and the other of members of the council of states, have been engaged in maturing plans of revision. Each has prepared a long series of amendments to the present constitution. These amendments are in many instances identical, and, in their general scope, indicate considerable harmony of views between the respective committees. They have been published in a pamphlet in connection the text of the existing constitution, so as to show at a glance the precise innovations proposed, and the divergencies that exist between the two committees. A copy of this pamphlet will be forwarded to you by the same post with this dispatch.

The general effect of the amendment would be, if adopted, to enlarge materially the bounds of the federal authority, and to give the government a more centralized form and character.

The most important changes proposed are those which would place the organization of the army entirely within the dominion of federal legislation, and entail directly upon the confederation the charges for its instruction and equipment, as well as maintenance, and those which would deprive the cantons of all direct interest in the receipts from customs, tolls, postages, and the tax on exemptions from military service. There is much difference of opinion in respect to the policy of such a radical change in the existing system. Some of the most experienced

and enlightened public men of the country hesitate to give them their approbation, or openly oppose them. These doubt or deny that the relief afforded the cantons through the assumption by the confederation of the expenses of the army would compensate the cantons for the loss they would sustain by abandoning their present receipts from tolls, postages, &c., while they apprehend a serious diminution of local zeal in the collection of such taxes, as well as in the maintenance of rates essential for the needs of the government, should the proceeds be directed into the federal treasury.

The other principal modifications of the present constitution proposed are :

1. Respecting citizenship. A Swiss citizen establishing himself in any canton is to enjoy all the rights of such canton, except participation in the property of the bourgeoisie or of corporations. After three months' residence, he may vote at cantonal and communal, as well as federal elections. At present he may be excluded from voting at canonical elections, and the residence required before he is permitted to vote at cantonal elections is regulated by the law of the canton, limited by a provision of the actual constitution which declares that not more than two years' residence shall be required. Cantonal laws in regard to settlements are to be submitted to the sanction of the Federal Council.

2. A Swiss citizen who acquires or accepts a foreign citizenship will forfeit his Swiss citizenship.

3. The free exercise of worship is guaranteed. At present this guarantee is limited to recognized Christian confessions.

4. Cantonal laws for the repression of abuses that may arise from the exercise of the right of association accorded to the people must be submitted to the approval of the Federal Council.

5. The abolition of the death penalty. This is only proposed by the committee of the national council.

6. The federal tribunal constituted a supreme federal tribunal, with a jurisdiction more approximated to that of the Supreme Court of the United States.

Of the new articles proposed, the principal are in substance as follows :

1. Legislation respecting the constitution and management of railways appertains to the confederation.

2. The opening of gambling-houses is prohibited. Those already licensed to be closed when the present license expires.

3. Regulations for the conduct and police of industrial establishments, as well as in regard to the labor of adults and children in factories, will be prescribed by federal legislation.

4. Liberty of conscience guaranteed. No one to be disquieted in the exercise of his political or civil rights on account of religious opinion, or to be compelled to perform religious acts, or to incur any penalty for abstaining from them, or to be made to pay taxes for the support of a worship or religious confession to which he declares he does not belong. No person to be released from the performance of civil duties on account of his religious opinions.

5. Marriage placed under the protection of the confederation. Marriages not to be hindered on account of the indigence of either of the parties thereto, or their previous conduct; marriages performed in accordance with the laws of the canton where they are solemnized to be valid throughout the confederation; the wife will acquire the rights of citizenship and of *bourgeoisie* of the husband; children born out of wedlock to become legitimate on the subsequent marriage of the parents.

6. Federal legislation to be extended over the subjects of commercial law, contracts, marriage, domicile, the keeping of the registers of the *stat-civil*, prosecutions for debts, and bankruptcies.

7. When 50,000 electors demand a modification or the repeal of an existing law, or that a new law be enacted, on a specified subject, the two houses of the legislative body, if they approve of the demand, are to prepare a bill in conformity therewith, and submit it to a vote of the people and of the cantons. If the two houses do not approve of the demand, this is to be submitted to a vote of the people and of the cantons, and if a majority of the people and of the cantons approve of the demand, it will be the duty of the legislative body to frame a bill in conformance therewith, and submit such bill to a vote of the people and of the cantons.

The principle of the last-mentioned amendment has been incorporated in the constitution of the canton of Zurich. It is called "popular initiative." The proposition to include it in the federal constitution proceeds from the committee of the national council, and is not concurred in by the committee of the council of states. The principle, however, is very favorably regarded in Switzerland, and it is not unlikely to prevail if any considerable portion of the projected plans for a revision prevail. The committee of the council of states, while rejecting the "popular initiative," propose that laws involving an expenditure of more than one million of francs shall be submitted to a vote of the people and of the cantons, when the two houses of the legislative body so decree, or when, within three months after the publication of such a law, five cantons, or 50,000 electors, shall ask for such submission.

The demand for a revision appears to proceed chiefly from the political and commercial classes of the population. The latter, especially, are urgent in calling for a unification of the laws regulating contracts, the collection of debts, &c., great inconvenience and injustice frequently resulting from the conflicting systems which at present prevail in the several cantons. At the same time, the agricultural and laboring classes seem indifferent, or to take very little interest in the subject. Again, many persons, who would otherwise look with favor upon propositions for giving increased authority to the central government, in view of the peculiar circumstances in which Switzerland is placed, the progress made under the established order of things, and the present very satisfactory condition of the country, both in its internal and external relations, deem it unwise to enter upon new experiments. The primitive cantons, the French cantons, and the Catholic element of the population are also pronounced in their opposition to the general scope of the revision projects. Conservatives of all shades shrink from giving any occasion for disturbing the harmony now prevailing between the different sections of the confederation, and fear that such might be the consequence of any considerable centralization of the government. Three different races of people, each speaking a different language, are comprised in the population of Switzerland. Of these, the German-speaking portion is largely predominant in numbers, and can at will wield the federal authority as it chooses. Thus every increase of the federal power would give increased ascendancy to the German-speaking element of the people, and would afford additional pretexts, if not just grounds, for apprehensions and jealousies on the part of the French and Italian cantons.

It is not improbable that the Federal Assembly, notwithstanding some serious differences of opinion on the subject between the two houses, will be able to harmonize upon a project of revision; but it is still a matter of considerable doubt whether, in case sufficient interest is awak-

ened to call out a full vote of the electors, the result of their deliberations will secure a popular approval.

I am, sir, &c.,

HORACE RUBLEE.

No. 394.

Mr. Rublee to Mr. Fish.

[Extract.]

No. 54.]

LEGATION OF THE UNITED STATES,
Berne, July 24, 1871. (Received August 9.)

SIR: The summer session of the Federal Assembly of Switzerland closed on Saturday the 22d instant. After considerable discussion, and several disagreeing votes, the two houses finally coincided in postponing the consideration of the report on the proposed revision of the federal constitution to a special session, which will be convened for the purpose on the 6th day of November next.

The summer session was mainly devoted to the consideration of measures of a purely local interest.

Recent events in Europe have caused increased attention to be given to the promotion of the efficiency of the army, and credits to the amount of seven and a half millions of francs were voted for the purpose of improving the arms now on hand, for the manufacture of additional supplies, and for the new arming of the Landwehr with repeater-guns.

By the same post with this dispatch, I forward printed copies, in duplicate, of a message of the Federal Council to the Federal Assembly concerning the new armament of the Landwehr and the creation of a reserve of guns, and a message of the Federal Council to the Federal Assembly concerning the transformation of the cannon of the light artillery into rifled breech-loading guns and the increase of field batteries. These documents contain some interesting details respecting the armament of Swiss forces, and recent improvements in artillery and fire arms.

A discussion of some importance occurred in the council of states, on the day preceding the final adjournment, upon a motion by Mr. Carl Vogt inviting the Federal Council to take the initiative in calling an international conference for the purpose of establishing definitive rules in regard to the rights and duties of neutrals. The author of the motion remarked that at present the same rules did not apply alike to different powers. There was one law for the weak and another for the strong. In illustration of this assertion, he averred that during the recent war between France and Germany, the United States and England had permitted an extensive traffic in arms and munitions of war, while Switzerland and Belgium felt constrained to prohibit such exportations. The internement of the French Army of the East had imposed heavy sacrifices; a powerful state, he said, would have disarmed the forces and sent them back into their own country. The Geneva convention for the aid of the sick and wounded, in time of war, established certain rules respecting neutrals; why not, in like manner, establish a code for the conduct of neutrals in other respects? Referring to the recent treaty between the United States and Great Britain, the speaker said it proposed to settle the Alabama question by agreeing upon certain prin-

ciples of international law as binding upon neutrals, and was a step in the same direction with the measure which he proposed.

The President of the confederation, Dr. Schenk, in reply, opposed the motion chiefly as impracticable and likely to lead to no result. Conceding, however, that the several powers gave their consent, and a conference was held, there would exist such a diversity of views and interests that it was hardly possible that they could be reconciled. He also referred to the difficulty of enforcing an international code, and the probability that it would be disregarded, at their convenience, by the great powers, if once adopted. He accordingly regarded the advantages that might be anticipated from such a conference as illusory.

After considerable discussion *pro* and *con*, the motion was modified so as merely to invite the Federal Council to inquire whether it may not be possible by international action to define and establish the rights and duties of neutrals, and to prepare a report upon the subject. In this form the motion was adopted by a large majority.

I have, &c.,

HORACE RUBLEE.

No. 395.

Mr. Rublee to Mr. Fish.

[Extract.]

No. 58.] LEGATION OF THE UNITED STATES,
Berne, August 3, 1871. (Received August 21.)

SIR: I have the honor to acknowledge the receipt of your dispatch No. 50, transmitting the draught of a note to be presented by me to the government of the Swiss Confederation, requesting that the President of that confederation will be pleased to appoint an arbitrator to form, with the arbitrators to be named by the President of the United States, by Her Britannic Majesty, by His Majesty the King of Italy, and by His Majesty the Emperor of Brazil, the tribunal of arbitration to which, in pursuance of the first article of the treaty signed at Washington on the 8th of May, the United States and Her Britannic Majesty have agreed that all claims growing out of the acts committed by the several vessels which have given rise to the claims generically known as the "Alabama claims" shall be referred.

In conformity with the instructions contained in your dispatch, I arranged with Mr. Bonar, the British minister here, for the simultaneous presentation of our respective notes on the subject, which, together with copies of the treaty, were accordingly placed to-day in the hands of the President of the Swiss Confederation, who is ex-officio minister for foreign affairs. A copy of my note is herewith transmitted.

In a subsequent conversation with the President, in which he again signified his consent to name an arbitrator, as requested, I took occasion to draw his attention to the final clause of Article I of the treaty, which relates to the period within which it is desired that the nomination may be made. The President, in reply, remarked that he hoped to be able to name an arbitrator within a much shorter period. * * *

I am, &c.,

HORACE RUBLEE.

LEGATION OF THE UNITED STATES,
Berne, August 3, 1871.

His Excellency Dr. KARL SCHENK,
President of the Swiss Confederation :

Differences having arisen between the Government of the United States and the government of Her Britannic Majesty, growing out of the acts committed by the several vessels which have given rise to the claims generically known as the "Alabama claims," the high contracting parties, in order to remove and adjust all complaints and claims on the part of the United States, and to provide for the speedy settlement of such claims, have agreed, by the first article of a treaty signed at Washington on the 8th day of May, 1871, of which a copy is annexed, to refer all the said claims growing out of acts committed by the aforesaid vessels, and generically known as the "Alabama claims," to a tribunal of arbitration, to be composed of five arbitrators, to be appointed in the following manner; that is to say: One shall be named by the President of the United States; one shall be named by Her Britannic Majesty; His Majesty the King of Italy shall be requested to name one; the President of the Swiss Confederation shall be requested to name one; and His Majesty the Emperor of Brazil shall be requested to name one.

The high contracting parties, therefore, reposing entire confidence in the spirit of justice and impartiality which distinguish the President of the Swiss Confederation, the common friend of the two states, have agreed, in pursuance of the said treaty, to address themselves severally to the President of that confederation, and to request him to be pleased to appoint an arbitrator, to form, with the arbitrators to be named by the other powers above named, the tribunal of arbitration to which the reference agreed upon in the first article of the treaty shall be made.

The undersigned, minister resident of the United States accredited to the Swiss Confederation, having received the orders of his Government to communicate to the President of the Swiss Confederation the agreement thus made on the part of the United States, has been further charged to express the earnest desire of the President of the United States that the President of the Swiss republic will be willing to afford his good offices on the present occasion, and will be pleased to appoint an arbitrator to act in the premises.

The undersigned has, therefore, the honor to lay this communication directly before His Excellency the President of the Swiss Confederation, as holding, at the same time, the office of federal councillor for the political department and for foreign affairs, and to request that his excellency may be pleased to make known to the undersigned his determination with regard to the request therein set forth.

The undersigned seizes the occasion to renew to your excellency and to the members of the high Federal Council the assurance of his highest consideration.

HORACE RUBLEE.

No. 396.

Mr. Rublee to Mr. Fish.

No. 00.]

LEGATION OF THE UNITED STATES,
Berne, August 10, 1871. (Received August 28.)

SIR: Up to the 9th instant, the government of France had reimbursed to the government of Switzerland five millions of francs on account of the expenditures of the latter consequent upon the internement of the French Army of the East. The aggregate expenditure of Switzerland in the transaction is placed at eleven millions of francs. The announcement is made that an arrangement has been effected between the two governments, in pursuance of which France is to pay to Switzerland, after the 15th of the present month, the sum of one million of francs every fifteen days until the claim of the latter is satisfied. At the same time, France reclaims the material of war which was surrendered with the Army of the East, and the Federal Council has given orders for its immediate delivery.

An extradition case is pending at Geneva, which excites considerable interest in diplomatic circles here. On the 17th ultimo, one M. Razbua, who is alleged to have held a commission under the communal govern-

ment of Paris, and to have had charge of the concern known as the Ecole Militaire during the reign of the commune, was arrested at Geneva, upon the demand of the French government. Among the charges brought against him, and upon which his extradition is asked, the one most relied on, I believe, is that which accuses him of having pillaged the Ecole Militaire. He remains in confinement at Geneva, awaiting the production of satisfactory evidence, on the part of the French government, that he is guilty of offenses which, under the existing extradition treaty between Switzerland and France, will justify his delivery to the French authorities. Meanwhile, the "*Association politique ourière nationale*," of Geneva, has addressed a long petition in his behalf to the Federal Council, demanding a vigilant maintenance of the right of asylum for persons guilty only of political offenses, and strenuously urging the title of the communist authorities of Paris to be recognized and treated as belligerents in their struggle with the Versailles government.

I am, &c.,

HORACE RUBLEE.

No. 397.

Mr. Rublee to Mr. Fish.

No. 61.]

LEGATION OF THE UNITED STATES,
Berne, August 12, 1871. (Received August 29.)

SIR: I have the honor to transmit herewith a copy of a note from Mr. Schenk, the President of the Swiss Confederation, in which he formally announces that, in compliance with the joint request of the governments of the United States and Great Britain, he will name a member of the tribunal of arbitration for the settlement of the "Alabama claims," in accordance with the provisions of the treaty of Washington, concluded on the 8th of May, A. D. 1871.

I am, &c.,

HORACE RUBLEE.

BERNE, August 9, 1871.

The President of the Swiss Confederation to Mr. Rublee.

The undersigned has had the honor to receive the note dated the 3d instant, addressed to him by the minister resident of the United States of America, by which Mr. Rublee informs him that the United States Government and the government of Great Britain have agreed, by the treaty of Washington of the 8th May, 1871, that the claim of the United States against England arising from the war of North America, and known under the name of the "Alabama question," be regulated by a "tribunal of international arbitrators," upon the basis of the dispositions of said treaty.

In conformity with article 1st of the treaty, the tribunal shall consist of five members, of which two shall be named by His Excellency the President of the United States and Her Majesty the Queen of England, and three others by His Majesty the King of Italy, the President of the Swiss Confederation, and His Majesty the Emperor of Brazil.

In transmitting the acts relative to this case to the undersigned, Mr. Minister Resident of the United States of America has expressed the desire of his high government that he may undertake to choose one of the arbitrators.

Thanking Mr. Rublee for this communication, the undersigned has the honor to inform him that he has immediately acquainted the Federal Council of the honorable mission intrusted to Switzerland by two high governments with which it is, by ties of friendship, so intimately connected, and that the council has, with pleasure, expressed its readiness to contribute to a work of reconciliation that answers so well to the dignity of two contracting nations, and to the principles of modern civilization.

In accordance with these considerations, the undersigned has been authorized to accept the honorable mission which was offered to him, and he will not fail to communicate in proper time to the Mr. Minister Resident of the United States the name of the arbitrator which he will have nominated.

In having the honor to bring these facts to the notice of Mr. Rublee, he hastens to renew to him the assurance of his high consideration.

The President of the confederation,

SCHENK.

Mr. HORACE RUBLEE,

*Minister Resident of the United States of America
at the Swiss Confederation, Berne.*

No. 398.

Mr. Rublee to Mr. Fish.

[Extract.]

No. 62.]

LEGATION OF THE UNITED STATES,
Berne, August 16, 1871. (Received August 31.)

SIR: During an interview with the President of Switzerland to-day, he informed me that, in compliance with the joint request of the governments of the United States and of Great Britain, he had named a member of the tribunal of arbitration provided for by the treaty of Washington, of May 8, 1871, and that he had designated Mr. Jacob Stämpfli as the member from Switzerland of such tribunal. This fact he communicated to me unofficially, adding that he reserved its official announcement until such time as the appointment of a member of the tribunal of arbitration by Italy should be made public.

Mr. Stämpfli is one of the most prominent public men in Switzerland, and one of its most able statesmen, having been in public life for more than twenty years past. Since the organization of the government, under the constitution of 1848, he has been continuously a leading member of the national council, and for a considerable part of the time a member of the Federal Council. He has been three times chosen President of the confederation. He is a lawyer by profession, but, during some years, since resigning his position as a member of the Federal Council, has been chiefly occupied with the affairs of the Federal Bank, of which he is president. In politics he belongs to the liberal, or perhaps I might more properly say, the radical, party of Switzerland.

* * * * *

I have, &c.,

HORACE RUBLEE.

T U R K E Y .

No. 399.

Mr. MacVeagh to Mr. Fish.

[Extracts.]

No. 13.]

LEGATION OF THE UNITED STATES,
Constantinople, December 6, 1870. (Received December 30.)

SIR: In two days after the date of my last dispatch we received the news of the proposal of a conference on the eastern question, and as I am writing we are assured of its acceptance. The peaceable solution of the difficulty is regarded here as certain; indeed war has never been regarded here as anything but improbable; but, as much of this opinion rested upon the mistaken belief that in no event would England engage in war, it has not impressed me as profoundly as it otherwise might have done. What appeared to me far more important was what I learned of the attitude of the Sultan in the matter. I am tolerably sure that he has been resolved upon peace at almost any price, and I should not be surprised if communications to that effect had passed between him and the Czar. Indeed, the information I received leads me to suppose that the grand vizier, who is believed to follow implicitly the advice of England, has had great difficulty in persuading His Majesty to abstain from direct interference in the interests of peace.

So many facts, however, from independent sources, have come to my knowledge, all tending in one direction, as to compel me to the belief that the Porte was very slow of movement in the first stages of the difficulty, and might even have been found impossible of control on the part of its allies, if an escape from war had not been discovered. Now that a conference has been accepted, the opinion in high quarters here is universal that it will result in the concession of the Russian demand, with possibly some slight counterbalancing concession to Turkey, and a new guarantee of all the other conditions of the treaty of Paris of 1856.

I have, &c.,

WAYNE MACVEAGH.

No. 400.

Mr. Fish to Mr. MacVeagh.

[Extracts.]

No 12.]

DEPARTMENT OF STATE,
Washington, December 13, 1870.

SIR: An application has been made to this Department, in a letter dated the 1st ultimo, and signed Mathieu Orlich, for a passport.

The applicant states, as you will observe, that he obtained a passport from this Department in 1853 or 1854; but upon examination of the Department records, this statement appears to be inaccurate. If Mr. Orlich

be entitled to a passport, an application to you would have been sufficient to secure one.

In judging Mr. Orlich's claim to protection as an American citizen, you have the principle laid down in the circular from this Department issued October 14, 1869, to guide you. Without determining that the continued residence in Turkey of an Hungarian or Austrian who may have been naturalized as an American citizen is necessarily to be regarded in the same light as the circular indicates with respect to a naturalized citizen returning to the country of his nativity, it may well be that the same principle applies. The fact of the person having been born in a contiguous jurisdiction assimilates his case very closely to the case contemplated by the circular, which was intended only to indicate the general principle and theory by which the agents of the Government in foreign countries are to be governed in deciding the questions which come before them.

Among the tests which may be applied to determine the intent of a naturalized person who resides continuously abroad, the fact of payment by such person of the income and excise taxes which have been imposed by law (since 1861) upon American citizens will be an important aid. Inquiry should be made when, and in what assessment district, the returns required by the internal revenue laws have been made; where and to whom the taxes have been paid. The omission to have made the returns, or to have paid any tax, would necessarily cast grave suspicion upon the claim of the party applying for the protection of a government from whose support he has withheld the contributions required of all its citizens, whether resident at home or abroad; and if such omission has been long continued, it will, as a general rule, justify the refusal of a recognition of the claim to protection.

I am, &c.,

HAMILTON FISH.

No. 401.

Mr. MacVeagh to Mr. Fish.

No. 18]

LEGATION OF THE UNITED STATES,
Constantinople, December 31, 1870. (Received Jan. 30, 1871.)

SIR: The unsettled state of the public mind here to which I alluded in my dispatch of the 24th instant, has rather tended, I am sorry to say, to increase than to disappear during the past week. Indeed, current opinion at this capital has undergone several marked changes since the appearance of the Russian circular.

After the panic on the Bourse, which followed the first intelligence of the circular, there was little alarm manifested in consequence of it. The legations were almost unanimous in expecting a peaceful solution of the difficulty, nor did the Porte appear to apprehend serious danger of war. Indeed, as I informed you at the time, it was gravely doubted here whether England would in any possible event defend the treaty by arms, and even if she decided to do so, whether Turkey would follow her guidance. The first doubt disappeared when Lord Granville's answer to the circular was received; and the long and uniform foreign policy of the Grand Vizier, who remained in office, notwithstanding

repeated rumors of his resignation, seemed to make clear the probable course of the government of the Sultan.

These considerations soon sufficed to produce great uneasiness and distrust, and for some days transactions in the public debt of the empire almost ceased. In a few days, however, the news of Count Bismarck's proposal of a conference, and its probable acceptance, reached us; and it at once seemed to renew the general confidence in an amicable solution of the questions at issue, and to give it even more tone and vigor than it had originally displayed. For the East, peace was believed to be assured. The capitulation of Paris was expected to be close at hand, and with it the end of the terrible Franco-Prussian struggle. It was, therefore, very generally supposed that with the new year, or very soon thereafter, peace would be restored to Europe in the west as well as in the east, and that a large portion of the blessings of that result would fall to the share of the Ottoman empire in an increased sense of its stability, at home and abroad.

To such an extent, indeed, did I share this general conviction, that under its influence I wrote you for leave to return home; and though of course I was careful to assure you that I would not leave my post so long as there was any apprehension of war or other serious difficulty, I anticipated, with confidence, being able to start in the early spring, without detriment to the public service, so peaceful promised to be the aspect of affairs here by that time. As, however, considerable uneasiness and uncertainty are again discernible in the public mind here, and it may require longer time than I expected to be perfectly sure of peace, if the leave I requested has not been forwarded when this dispatch reaches you, please to withhold it until such time as I shall feel free to renew my application for it.

Various causes are assigned for the renewed anxiety to which I have alluded, and which is quite apparent at present. The recent action of Prince Charles of Roumania, the revolt in Asia, the suspected disloyalty of the Viceroy, and the bad condition of the finances, give rise in part to the fears of internal troubles, while the continuance of resistance by the French republic, Count Bismarck's recent letter to the Prussian ambassador at Florence, his renunciation of the treaty of Luxemburg, and the general willingness attributed to him to find or make cause of quarrel with some or all of the allies of the Sultan, give rise in fact to the fears of foreign troubles. These fears may be altogether groundless, and to a great extent they certainly appear to be so, but they serve to create a feverish and unsettled feeling, both here and in other parts of the empire, which in itself may become a source of danger. I hope to be able to send you a dispatch of some interest by the next mail on the subject of the Straits of the Dardanelles and the Bosphorus.

The rumor reaches us to-day that the approaching conference will consider the question of their use by foreign powers. Their importance is increasing day by day, and the time cannot be very far distant when an authoritative determination of their status will be required alike in the interest of commerce and of peace.

I have, &c.,

WAYNE MACVEAGH.

No. 402.

Mr. Fish to Mr. MacVeagh.

No. 15.]

DEPARTMENT OF STATE,
Washington, January 5, 1871.

SIR: Your dispatch No. 14, of the 8th ultimo, has been received. The view is correct which it takes of the absurd newspaper report of a letter from President Grant to the Emperor of Russia, congratulating the latter upon his denunciation of the clause of the treaty of Paris which restricts liberty of navigation in the Black Sea. The occasions are rare which are conceived to warrant or require a deviation on the part of the President from the rule which limits his communications to foreign sovereigns to mere letters of ceremony. The occasion adverted to was not deemed sufficient to call for any such communication. It is true that the United States, not having been a party to the treaty of Paris, may have more or less reason to complain of any curtailment of their rights under the law of nations which it may have effected. No formal complaint on the subject, however, has as yet been addressed to either of the parties to that instrument, though the restriction which it imposes on the right of our men-of-war to the passage of the Dardanelles and the Bosphorus is under serious consideration.

I am, &c.,

HAMILTON FISH.

No. 403.

Mr. MacVeagh to Mr. Fish.

[Extracts.]

No. 22.]

LEGATION OF THE UNITED STATES,
Constantinople, January 19, 1871. (Received Feb. 18.)

SIR: The different consulates within my jurisdiction, as you are aware, desire my opinion and assistance from time to time in matters concerning the officers attached to the consulates or the American citizens under their protection. As a general rule the difficulties are easy of solution, but it occurred to me that you might desire to know the general principles by which I am guided in the instructions I give, as well as my answer to a recent application for instructions by the consul general at Beirut.

In the litigations and other troubles of the numerous dragomans and cavasses attached to our consular offices, I have always insisted that it was very undesirable for the legation to bring them to the attention of the Porte, or to endeavor to secure their removal from the ordinary methods of judicial procedure, unless they arise from or were in some manner related to the official conduct of the dragoman or cavass in question. Many of these officers are such in name only; they receive no salary; they seldom discharge any duties, because there is rarely occasion for their services; and they are almost universally engaged in other business.

The value of their protection from the consular officer depends upon their withdrawal from responsibility to the tribunals of their own country. As these tribunals are often very inefficient and often believed to be corrupt, and as the relations of the consular officer are frequently very intimate with his six or eight attachés, it is quite natural that the

importance of their protection in all their litigations should appear to the consular officer in quite an exaggerated form, while it is equally natural that he should not see the ill effect such continual intermeddling by the legation in such small matters between the Porte and its own subjects is sure to exert upon the character of the legation itself.

Moreover such intermeddling encourages a litigious disposition on the part of the persons protected. In the last ninety days three matters of litigation have been brought to the notice of the Porte affecting a single dragoman of the very subordinate vice-consulate at Aleppo, not one of them, so far as I can remember, having the slightest connection with his office. Then, too, I have not been able to agree that the disposition of other governments to withdraw as many Turkish subjects as possible from the jurisdiction of their own tribunals furnished any rule for our guidance; nor have I assented to the idea, which seems to be prevalent, especially in Asiatic Turkey, that a large following of unpaid attachés is at all necessary to inspire the local authorities with proper respect for the Government of the United States.

The question presented to me by the consul general at Beirut, and to which I have alluded, was of a wholly different character. He desired to know whether the right of interference in his official capacity existed in behalf of native teachers in American mission schools. My answer, after pointing out that the praiseworthy and even Christian character of the work to be advanced could make no difference in its treatment, informed the consul general that I supposed the proper rule for his guidance was, that, if the native teachers were troubled *because* of their services to American citizens, he ought to interfere; if not, he ought not to interfere.

Inasmuch as our citizens had an undoubted right to preach and teach, and as the presence and assistance of natives were indispensable to the enjoyment of these rights, any attempt to persecute or harass in any way natives for rendering lawful services to American citizens, was an infraction of the rights of such American citizens, and was to be resisted, as such, and in the names of such American citizens. In other words, I informed him that in my judgment the true criterion was, not whether an Ottoman subject was being harshly or unjustly treated, but whether, directly or indirectly, the rights of an officer or a citizen of the United States were likely to be infringed.

The practical application of the rules I have mentioned will always be more or less difficult under Ottoman administration, and I have endeavored in all cases to recommend them with proper courtesy and with the distrust due to my limited experience; but I am satisfied, if properly observed, they will afford an almost perfect guarantee of our ability to settle all the questions arising here satisfactorily, without recourse to the Department.

There are several considerable settlements of Americans in this empire, to which I may make a brief visit with a view of rendering their relations to the legation more intimate; and in that case I will take care to consider the subject of this dispatch with the principal consuls whom I would thus meet.

Yours, &c.,

WAYNE MACVEAGH.

No. 404.

Mr. MacVeagh to Mr. Fish.

No. 23.]

LEGATION OF THE UNITED STATES,
Constantinople, January 24, 1871. (Received February 22.)

SIR: In view of the conference now in session at London, and the prominence which has been recently given to the restrictions affecting the navigation of the Straits of the Bosphorus and the Dardanelles, it has occurred to me that you might desire to possess, in the convenient form of a dispatch, a statement as well of the restrictions themselves, as of the grounds on which they are rested. In any view of this question a primary consideration is the grave importance attached immemorially to the geographical peculiarities of the situation of Constantinople.

On the west the narrow Straits of the Dardanelles connect the sea of Marmora with the Greek Archipelago; on the east the narrow Straits of the Bosphorus connect the Sea of Marmora with the Black Sea. From the beginning of the one strait to the end of the other the shores on both sides belong exclusively to the Ottoman Empire; and its capital and chief city is at the meeting of the waters of the Straits of the Bosphorus and of the Sea of Marmora. This site is asserted to be practically incapable of defense against an attack by a naval force, except at the two entrances or straits which have been named, and it is also asserted that the absolute necessity of fortifying and defending these entrances, as the only means of securing the safety of Constantinople from attacks by sea, was recognized centuries before the conquest of the country by Ottoman Sultans; and that the same necessity has been constantly asserted and maintained ever since. In this view all the waters connecting the Greek Archipelago with the Black Sea are *mare clausum*, and are only navigable by the consent of and under the restrictions imposed by the government of the Ottoman Empire.

The question of this consent, and of these restrictions, naturally divides itself, first in reference to vessels of commerce, and secondly in reference to vessels of war. As regards both these classes the Ottoman government alleges that its policy has been uniform, and as liberal as a proper regard for its own safety would allow; and that its conduct in the exercise of its undoubted rights of control over these connecting waters has often received, as it has always deserved, the cordial recognition and approval of all friendly powers.

The right of merchant-vessels to navigate these connecting waters rests upon treaties; and certainly the concessions to the commerce of other nations appear to be very liberal and comprehensive, when the treaties embodying these privileges are compared with the contemporary policies of civilized and Christian nations on the subject of foreign trade.

The earliest treaty between this empire and any western nation of which I have knowledge was concluded with France in 1535. It extended the fullest liberty of navigation to the subjects of France in all the waters of the empire, and provided that vessels coming to Constantinople, and desiring to return, should only be stopped at the Straits of the Dardanelles. The treaty also afforded to the Pope, the King of England, and the King of Scotland the option of becoming parties to it, and thereby securing the same privileges for their subjects.

In the next century—1675—the capitulations granted to Great Britain recognized the same absolute liberty of navigation as was secured by

the treaty with France, and considerably enlarged the privileges of foreign merchants in the empire. They also expressly commanded that the old "canon of search" should be executed at the castles and in ports only, and nowhere else, the term "castles" meaning, I suppose, the fortresses at the Dardanelles. In the following century—1747—the treaty with Tuscany allowed "its merchants to enter with their vessels any of the ports subject to the Imperial Turk; to sail backwards and forwards at their pleasure; expose their goods for sale; and quit the said ports in safety and security." It also provides that "said merchants, having obtained the usual license and certificate, shall not be detained on their voyage upon arriving at the Straits of the Hellespont, more generally known as the Dardanelles."

The three treaties to which I have alluded are believed to be fair specimens of the numerous and lengthy commercial conventions concluded by the Ottoman Empire from the inception of treaty relations with the Christian powers to the period when the persistent efforts of Russia succeeded in annexing to her dominions a large portion of the northern coast of the empire.

Until that conquest was effected the passage of foreign merchant-vessels seems not to have been contemplated beyond Constantinople. At least I have not observed any allusion to such a contingency in any treaty of a previous date. It would seem to have been assumed that foreign merchant-vessels would come only as far as the capital and return; and in making this voyage, according to the treaty with Tuscany in 1747, they were required only to submit to examination in port, and to stop to deliver the proper license, or firman, and certificate at the Dardanelles.

The first mention of the passage of the Straits of the Bosphorus and the consequent navigation of the Black Sea occurs in the historic treaty of Kainardji—1774—whereby Russia secured the southern sea-coast she had so long coveted. That treaty, called by the late Emperor Nicholas "the glorious treaty," granted, in ample terms, the free passage of the Bosphorus to the merchant-vessels of Russia. In a convention—1779—explanatory of the treaty of Kainardji, the tonnage of the Russian vessels which are to enjoy the rights theretofore granted is regulated by the tonnage of the vessels of other nations "which come by the Sea of Marmora to Constantinople."

In the treaty of commerce—1783—between Russia and the Porte, the liberty of navigation theretofore granted is expressed in even broader terms, and the Porte obliges itself to deliver firmans or permits to all Russian merchant-vessels going either through the Bosphorus or through the Dardanelles, to secure their unobstructed passage through those straits respectively. The navigation of the Bosphorus and the Black Sea thus accorded to the merchant-vessels of Russia was extended to those of Austria in 1784, to those of England in 1799, to those of France in 1802, and to those of Prussia in 1806; while, in 1826, in a convention with Russia explanatory of the treaty of Bucharest, the Porte agreed to accept the good offices of Russia to secure permission to enter the Black Sea for ships of friendly powers which had not yet obtained this privilege for their commerce.

This convention was, however, soon followed by war between the two empires, and the war was closed by the historic treaty of Adrianople—1829—whereby the broadest possible terms were employed to secure an absolutely free and unobstructed navigation of all the waters connecting the Greek Archipelago with the Black Sea for the merchant-vessels

of all the world. The language employed could hardly be rendered more comprehensive by human ingenuity.

It declares "that full and entire freedom of trade" by sea and land shall not be molested nor fettered in any way, or under any pretext, nor in consequence of any regulation or measure, whether of public government or internal legislation. The Sublime Porte engages, moreover, to take especial care that the trade and navigation of the Black Sea particularly shall be impeded in no manner whatever. For this purpose it admits and declares the passage of the "Straits of Constantinople, the Bosphorus, and that of the Dardanelles," to be "entirely free and open" to vessels under the merchant flag of any power at peace with the Porte; and it engages that such vessels shall be exposed to no hinderance or annoyance of any kind, declaring that "to this full freedom of trade and navigation not the least obstacle shall ever be opposed." In the following year—1830—our own treaty was concluded with the Porte, securing to us all the privileges of the most favored nations, and providing that "the merchant vessels of the United States shall have liberty to pass the canal of the imperial residence, the Bosphorus, and go and come in the Black Sea." Our treaty of commerce—1862—contains upon this subject only the clause usually inserted in commercial treaties concluded in recent years with the Porte. "The firmans required for merchant vessels of the United States on passing through the Dardanelles and the Bosphorus shall always be delivered in such manner as to occasion to such vessels the least possible delay." It will thus be seen that the fullest liberty exists for the navigation of all these connecting waters by the merchant vessels of all nations.

Of course this liberty of navigation, however ample, is subject to proper regulations of police and of health, but the language of the treaty of Adrianople and of the common clause of recent treaties respecting firmans, which I quoted from our own treaty of 1862, affords conclusive evidence that regulations for these purposes should be framed so as to cause the slightest possible annoyance to commerce. Unfortunately such is not the case.

The regulations in force are antiquated, and unnecessarily vexatious. A merchant vessel passing from the Archipelago to the Black Sea is obliged to stop at the Dardanelles to exhibit her bill of health; to stop at Constantinople to procure a firman for the eastern passage; and to stop at the Bosphorus to deliver it. And the same vessel, upon returning, is obliged to stop at the Bosphorus to exhibit her bill of health; to stop at Constantinople to obtain another firman for the westward passage; and to stop at the Dardanelles to deliver it. As neither strait can be entered, nor either firman obtained, at night, these six stoppages would constitute a very serious detention even if they did not, in many cases, cause the loss of favorable winds, and thus entail far more serious delay. Upon some occasions, also, by reason of them, danger is added to delay. It is confidently asserted that, for all these injurious restrictions, small steamboats, stationed by day and by night at each strait and conveying an officer of police and an officer of quarantine to each vessel desiring to pass, would afford a complete substitute; that they would secure every object now attained by the Porte and with greater certainty; that they would, at the same time, obviate every reasonable ground of complaint; and that the foreign commerce of these straits would cheerfully and even gladly bear the slight additional burden necessary to defray the expenses of the proposed service. A commission to consider the whole subject was instituted by the foreign legations, and an elaborate report was presented by that commission April

16, 1870. It is believed that if an earnest and united support was given to the recommendation of that commission, or to any other mode of remedying existing evils, little difficulty would be experienced in securing its adoption. Unfortunately, however, unanimity is hardly attainable in the diplomatic body accredited here. It is not charitable to imagine that jealousy of the influence of other nations could influence some members of it, while a general policy of disintegration rather than of amelioration might influence others; but, in fact, agreement is not easily reached. Until it is reached, it does not seem to me to be just to hold this government responsible for inaction. No serious objection is made to the rights which the Porte claims or to the duties which it extorts. The mode of asserting and exacting them only is objectionable. Until, therefore, the representatives of the more enlightened nations interested can agree in suggesting a better mode, it is not surprising that this government, which is essentially one of motive, adheres to its ancient usages. Indeed, the conduct of the Porte, in many respects affecting foreign trade, and the uniform language of its commercial treaties, would appear to justify the assertion of Count Cavour during the conferences at Paris in 1856, that "no power possesses a commercial legislation of a more liberal character than that of Turkey."

While, however, as we have thus seen, these connecting waters are free and open to the merchant ships of the world, subject only to regulations of police and health, with reference to the second branch of the inquiry—vessels of war—the exact contrary is the case.

In time of peace no war vessel of any nation is allowed to enter these connecting waters. On the east the fortresses of the Bosphorus, and on the west the fortresses of the Dardanelles, prohibit and deny such entrance to the war flag of any nation, however friendly to the Sublime Porte.

This prohibition is of immemorial observance, and has taken its place in public law under the name of "the ancient rule of the Ottoman Empire;" and it is distinctly recognized by Mr. Wheaton in his authoritative treatise upon "International Law."

The earliest incorporation which I have observed of "the ancient rule" in the text of a treaty occurs in the treaty of peace with Great Britain, 1809, and its presence there is probably owing to the fact that in 1807 an English fleet had forced the passage of the Dardanelles, and for the first time in the history of the empire a hostile naval flag had been visible from the walls of Stamboul.

The eleventh article of the treaty recites that it has been from all time denied to vessels of war to enter either the Bosphorus or the Dardanelles; and Great Britain promises for the future to respect this "ancient rule of the empire." The next mention of the subject is in the secret article of the famous treaty of Albarice with Russia, called the treaty of Unkiar-Skelessi, 1833, whereby the Porte agreed "to close the strait of the Dardanelles so as not to allow any foreign vessels of war to enter therein under any pretext whatever." This treaty was the price paid for the assistance of Russia in repelling the aggressions of Mehemet Ali, and the treaty was concluded while a Russian squadron was anchored in the Bosphorus and a Russian army was encamped upon its shores.

The next allusion to the subject is in the convention of London for the pacification of the Levant—1840—wherein the four allies of the Sultan declare that their temporary protection of Constantinople and the straits in question shall in no manner derogate from the "ancient rule of the empire," which the Sultan on his part declares it to be his firm determination to maintain intact in the future as in the past. The re-

cently published life of Lord Palmerston, edited by Sir Henry Bulwer, who was formerly British ambassador here, gives a very interesting account of the negotiation of this convention. Then followed, as is well known, the convention of the Dardanelles, concluded at London 13th July, 1841, whereby "the ancient rule of the Ottoman empire, prohibiting at all times ships of war of foreign powers from entering the straits of the Dardanelles and of the Bosphorus," received in a treaty, devoted to that subject only, the formal and solemn adhesion of Great Britain, Austria, France, Prussia, and Russia.

By the third article of the treaty the Porte reserved the right to communicate the treaty to all the powers with which it sustained friendly relations. Accordingly a circular was delivered by the Porte, March 5, 1842, to the foreign representatives of those powers at Constantinople, for transmission to their respective governments, reciting the convention and requesting the observance by each nation of "the ancient rule of the empire," thereby confirmed. This circular was transmitted to Washington by Commodore Porter, then occupying this mission, April 16, 1842. It only remains to add that the convention of the Dardanelles was re-enacted in terms, and annexed to the treaty of Paris of 1856, and that an exception has always existed to the "ancient rule" in question in favor of armed vessels of moderate size visiting the Porte, by special permission, on missions of friendship, or attached to the service of the foreign legations at Constantinople. It will be seen, therefore, that the closing of these straits to ships of war has never been rested upon the agreement of the powers recognizing it, but always upon the undoubted rights of the Ottoman empire; and while six great powers at Paris in 1856 recognized this usage, it is not known that any power at any time has ever questioned either its propriety or its validity.

I need hardly say that I have neither aimed nor expected in this dispatch to furnish you any information you do not already possess, but simply to provide you with a convenient statement of the actual condition of these two straits, "whose waters and ports, thrown open to the mercantile marine of every nation, are formally and in perpetuity interdicted to the flag of war."

I have, &c.,

WAYNE MACVEAGH.

No. 405.

Mr. MacVeagh to Mr. Fish.

No. 26.]

LEGATION OF THE UNITED STATES,
Constantinople, February 16, 1871. (Received March 20.)

SIR: As it is generally supposed here at present that peace will be concluded at an early day between France and Germany, and, as a consequence, that France will give a formal adhesion to the results already attained at the London conference, the principal subject of anxiety still remaining for the government of the Sultan is the very unfortunate condition of affairs in Roumania.

As all students of European politics have been watching with great interest the progress of the curious experiment of which that country has been the theater for some years past, I have been hoping from time to time to secure the proper information of the present condition of par-

ties there to enable me to send you an interesting dispatch upon the general subject.

For the present, however, I must content myself with stating to you that the state of affairs is so critical that the Porte may be obliged at any moment to have recourse to an armed occupation. It is indeed with a view of being prepared for this emergency that a camp of instruction has been established at Shumla, and that a force of probably thirty thousand men is being concentrated there with considerable rapidity.

No movement will be made by the central government until a necessity for the maintenance of internal order clearly exists; but when that moment arrives and the requisite sanction of the protecting powers is received, the movement, I have reason to believe, will be executed with such promptness and vigor as to assert the suzerainty of the Porte and prevent any serious internal disorder.

It is indeed a sad medley, a kind of "devil's dance," which a nest of politicians at Bucharest are having with the destinies of a most promising country, and it can hardly fail to result in either a coup d'état by Prince Charles or in his abdication. In either case it will be the duty of the Sultan to assume the responsibility of the maintenance of order, until, in conjunction with his allies, his government can decide upon what modifications are desirable in the existing constitution.

Prince Charles, in a letter recently published at Berlin, and which I doubt not has been brought to your notice, alleges that the cause of the difficulties now existing is the excess of power granted to the political leaders by the present constitution, while the political leaders, divergent on almost all other points, agree in declaring it to be wholly unsafe to allow any increase of power to the present prince, upon whom they seem to have succeeded in placing a great part of the odium attaching to a recent railway concession, generally known as the Strausberg scandal.

While, therefore, it is of course possible that matters may remain in *statu quo* until the European cabinets succeed in reaching an agreement upon the subject, you must not be surprised to hear either of a revolution, a coup d'état, or an abdication at any time.

It is true also that some persons imagine that in such event Russia and Prussia would be in accord in objecting to any occupation by the Porte, and would insist upon a solution of the question in favor of the autonomy of the Roumanians; but I am wholly unable to bring myself to believe that Prussia would favor such a policy, or that Russia would venture to assert it without the active support of Germany. I look only for an armed occupation by the Porte until an agreement of the great powers.

Your obedient servant,

WAYNE MACVEAGH.

No. 406.

Mr. MacVeagh to Mr. Fish.

No. 30.]

LEGATION OF THE UNITED STATES,
Constantinople, March 27, 1871. (Received April 27.)

SIR: Your dispatch No. 15, of the 5th of January, 1871, reached me some time ago, but I have delayed answering it until the result of the confer-

ence at London was clearly ascertained, and the important subject alluded to by you could thus be considered in its true light. My dispatches Nos. 23 and 24, on the same subject, had been forwarded to you some time before I was in receipt of yours, the dispatches having passed each other en route, and I beg you to regard what I now have the honor to submit to you as simply in continuation of those dispatches. In the former I endeavored to sketch for you the Ottoman history of the Dardanelles and the Bosphorus, and in the latter to suggest the probable action of the conference at London on the subject. That action, as announced by telegraph to us, is in exact accordance with the tenor of my dispatch of January 27, 1871. The ancient rule of the exclusion of ships of war is maintained except when the Porte deems it necessary to open them to allied and friendly fleets to secure the objects of the treaty of Paris of 1856; in other words, to resist the attack of an enemy. It may, therefore, become important at any moment for the Department to consider the question suggested in your dispatch of January 5, 1871, the denial of the passage of these straits to our ships of war; and, indeed, the dispatch itself suggests the necessity of its serious consideration at an early day. Under these circumstances I need offer no apology for calling your attention to the conduct of our Government in the matter upon previous occasions. In one of my former dispatches I fully explained the error of supposing that the closing of these straits to foreign ships of war depended upon, or was the result of, any treaty or agreement between the Porte and any other powers, great or small. It rests solely upon the immemorial usage of this empire; a usage explicitly recognized by the authoritative treatise of our own Wheaton, sanctioned by the recognition and respect of all nations at peace with the Porte since the possession of Constantinople by the Ottoman Sultans, and whose validity and prosperity are not known to have been ever seriously questioned. Like many other rights of sovereignty of many other nations, the manner of the exercise of this right of sovereignty of the Porte has, at different times, been the subject of treaty stipulations with other powers. As I stated at length in my former dispatch, at one time, by treaty with Russia, the Porte agreed to suspend the exercise of its right as to the vessels of Russia, but to exercise it as against the vessels of all other powers. At other times it agreed with the five great powers of Europe to exercise its right as against the vessels of all nations. By the recent treaty of London, it agrees to exercise its right at all times and against the vessels of all nations, except when it believes the opening of the straits is essential to its own defense. On all these occasions the Porte has received a most valuable equivalent for its agreement as to the mode of exercise of its sovereign rights over these straits, a solemn guarantee for the integrity of the Ottoman Empire, and on all these occasions it has retained the exception, which is as immemorial as the usage, of permitting the passage of vessels of moderate size attached to the service of the foreign legations resident at Constantinople. If, therefore, the Porte has the right of closing these straits to vessels of war, the mode of the exercise of that right would seem to be wholly unobjectionable at the present time, for, unlike the Russian treaty of 1833, the present operates upon all nations with perfect equality. The recognition of this right of the Porte by the Government of the United States has been frequent and uniform.

During forty years of friendly intercourse hardly a year has elapsed without some application for a firman for the passage of a war-vessel in virtue of the exception to which I have alluded; and from the John Adams, which brought Commodore Porter here in 1831, to the Franklin,

which carried Admiral Farragut away in 1868, there was no intimation of any kind on the part of our Government of any dissatisfaction with the rule of exclusion, or of the slightest doubt of its entire validity. In addition to these constant recognitions of the rule from year to year, this legation has on different occasions brought the matter to the knowledge of the Department of State, without ever evoking a suggestion as to the impropriety of the usage. Moreover, the Porte itself has on several occasions notified the legations resident here of its intentions with respect to the closing of the straits, and these intentions have been brought to the attention of our Government, and have been received with entire acquiescence. Following this unbroken series of precedents from the institution of the legation, my predecessor, Hon. E. Joy Morris, on the occasion of the permission accorded the Franklin to pass the Dardanelles, in 1868, she exceeding in size the class of vessels contemplated by the exception, recognized the rule of exclusion in the clearest terms, and acknowledged the exceptional character of the favor as well as its courtesy, and in the circular addressed by the Porte upon that occasion to the representatives of the signatory powers of the treaty of Paris of 1856, the ample recognition of the rule by Mr. Morris is set forth. Copies of the correspondence and of the circular were furnished by Mr. Morris to the Department in his dispatch No. 272, of 29th October, 1868. The Department of State, in a dispatch of September 15, 1868, had written to Mr. Morris: "The courtesy shown to the United States by the Sublime Porte in dispensing with the prohibition which would have prevented the Franklin from going up to Constantinople, is creditable to the Sultan's government, and for many reasons it is pleasing to the Government of the United States." Such has been the uniform tenor of the intercourse of the two governments upon the subject, as well before as after any treaty had been made by the Porte in the matter. The passage of our vessels of war has uniformly been requested in writing, and either as within the exception to the rule, or as an act of special courtesy in suspension of it. In the latter case it has uniformly been followed by the thanks of our Government for the favor. It does not seem proper to occupy your time with numerous extracts from the archives of the legation, but I have given you the results of a very careful and exhaustive study of them. We began our intercourse with Turkey by a treaty which secured for our vessels of commerce the right of passing these straits; and thus excluded the idea that we possessed the same right for our ships of war. In the long interval we have uniformly recognized, in all the modes known to diplomatic intercourse, the continued existence of the distinction.

In all this we have acted in company with every other civilized State. Any departure by us from a policy which we have so uniformly and so long pursued, and which all other nations continue to pursue, would certainly require very grave reasons for its justification. As I cannot conceive that upon careful consideration any such reasons will be found to exist, I fear I am troubling you unnecessarily with this dispatch, but it seemed to me to be proper to thus bring the whole subject to your notice. Of course I am not disturbed by the notions I found prevailing in this atmosphere upon the subject of our eastern policy, that we had no views or policy in these matters of our own, properly speaking; but that in the name of the removal of restrictions, or of the freedom of the seas, or of oppressed nationalities, or of the Hellenic idea, we were to espouse the policy of this or that European power, and to serve its purposes. These convictions do, however, quite generally prevail in this vicinity, as you will observe by some extracts I have heretofore sent

you, and have, in the ignorance which prevails of our national character, done us some harm. I do not discover that these aspersions have made any impression upon this government, though there have been of recent years some unfortunate combinations of circumstances which might have given rise to suspicions in suspicious minds. Whenever a proper opportunity has offered I have uniformly protested that we were the partisans of no power, whether friendly or hostile to Turkey; that we were loyal and sincere in our professions of friendship and amity for this government; that we remembered with gratitude the unwavering fidelity of the Porte during our great struggle; and that it was a base libel upon our national character to insinuate that we were susceptible of undue control or capable of other than a manly, straightforward, and utterly independent line of conduct. At the same time I have frankly stated that in the interest of our general policy we would rejoice at the opening of these waters to the unrestricted navigation of the globe, and that we would continue to cherish the hope that it would before long appear to the government of the Sultan to be compatible in every way with its interest and its safety to abandon in this respect the ancient usages of the empire. In the mean time, however, I have added, it would be grossly unjust to the United States to imagine for a moment that it would suffer itself to be used as the agent or ally of any other power to cause undue embarrassment to the Porte upon this or any other subject.

Yours, &c.,

WAYNE MACVEAGH.

No. 407.

Mr. Fish to Mr. MacVeagh.

No. 26.]

DEPARTMENT OF STATE,

Washington, April 18, 1871.

SIR: Your dispatch No. 29, of the 17th ultimo, relative to the controversies between Spain and Egypt and Italy and Tunis, has been received.

The Department has been fully informed of the origin and progress of the latter question by Mr. Heap, the experienced and intelligent consul of the United States at Tunis. The opinion which you express, that it is advisable for the United States to limit to as few as may be absolutely necessary the persons exempt from the local jurisdiction by being attached to the legation and consulates in Turkey and its dependencies, is entirely approved by the Department, and has for some time past been urged upon the officers of the United States in that quarter. It is understood that formerly there were great abuses in this respect. It was long before their extent could be ascertained, and it was found difficult to correct them from the eagerness with which persons sought the protection, so called, of the United States, and the reluctance of ministers and consuls to refuse it. No such immunity should be extended to any person not legally entitled to it, and then, as you remark, it should be maintained with firmness in behalf of those upon whom it may have been deliberately and considerably bestowed.

I am, &c.,

HAMILTON FISH.

No. 408.

Mr. MacVeagh to Mr. Fish.

No. 34.]

LEGATION OF THE UNITED STATES,
Constantinople, April 25, 1871. (Received May 23.)

SIR : At the present time, the two matters which are attracting most attention in political circles here are the mission of the Archbishop of Thessaly, as Ambassador of the Pope, to settle, if possible, the difficulties of the American Catholic community, and a synod of Bulgarian delegates now in session here, endeavoring to secure an ecclesiastical autonomy. Both efforts are likely to fail, for the pretensions of the Pope are so extensive as to be wholly incompatible with the sovereign rights of the Sultan as well as with the rights claimed by the recalcitrant members of the community; and in the matter of the Bulgarian schism the government has latterly evinced a disposition to withdraw from its former wise position of recognizing the independence of the Bulgarian Church. Whether this retrograde action is due to the influence of Russia, as some pretend, it is impossible to say; but nearly all careful students of eastern politics, of recent years, have agreed in regarding it as a most wise step for Turkey to withdraw the Bulgarians from all foreign associations, civil and religious, and thus draw closer the bonds which unite them to the Porte.

Scarcely any conjunction of circumstances could be more illustrative of the complications which beset this empire than that which exhibits it, not only as a preserver of the peace between the contending sects of the Christian church, but as an arbiter between contending factions of the same sect. To the wisdom of the Sublime Porte, as illuminated by the Koran, it is given to decide how far the Armenian schismatics shall obey the Pope, and the Bulgarian schismatics shall obey the Patriarch, while it is no unusual occurrence for Mahometan policemen to be obliged to prevent members of one Christian sect from killing those of another. Indeed the violence of the Armenians of the Greek faith against the converts to Protestantism is becoming so great that I fear it may spread until it endangers those of our own citizens engaged in the missionary work in some of the more benighted parts of the empire. Within the last fortnight three well-authenticated cases of outrages of this character have been brought to the knowledge of this legation, affecting as yet, however, only the converted subjects of the Porte; but, as I have said, unless this spirit of violence is checked it may extend from those who are converted to those who convert them. In some of these cases the consular agents of Russia and of Greece are alleged to have acted in the most outrageous manner, inciting the mob to violence and promising its members foreign protection; but if such is the case, and it is brought by the Porte to the knowledge of the representatives of these governments here, I am sure that proper punishment will be inflicted upon the offenders. As no American citizen has suffered in any direct manner, I have not felt at liberty to take any official notice of those occurrences; but in an informal and entirely unofficial manner I have mentioned them to the Porte, and suggested the wisdom of preventing repetition of them lest the spirit of discord might spread; and I am happy to say that the Porte has received my suggestions in the kindest spirit, and has manifested an earnest desire to secure the fullest religious liberty for all its Christian subjects.

You will readily appreciate, however, the difficulties with which the subject is surrounded, and especially how seriously it affects the pros-

pect of any important legal reforms. The Greek Church in Turkey regards Russia as its natural protector. The Catholic Church has heretofore regarded France in the same light, while Protestantism has usually looked to the English embassy in time of trouble. Even if foreign officials would not interfere to encourage disturbances of the public peace, they will interfere, directly or indirectly, very often in legal controversies between members of different sects; and if Mussulman judges could be induced to believe Christian witnesses, it is very sure, in any case in which a coreligionist was concerned, Catholic judges would not credit Greek witnesses, nor would Greek judges credit Catholic witnesses, while the testimony of Protestants is that it would be equally unsafe to believe either. Such is the muddle out of which a Mahometan government is asked to extract a coherent system of judicial reform, to be administered subject to the continued interference of the consular agents of the great powers.

We must not be surprised, therefore, if thus far no such system has been devised as promises to afford proper securities for the prompt and impartial administration of justice, for even if trained judges and trained advocates could be provided, the ignorance of great masses of the people inflames their religious animosities until they become incapable of desiring justice, and the constant interference of the agents of foreign powers leads them to look elsewhere than to the tribunals of the country for protection.

Your obedient servant,

WAYNE MACVEAGH.

No. 409.

Mr. Fish to Mr. MacVeagh.

No. 29.]

DEPARTMENT OF STATE,
Washington, May 5, 1871.

SIR: Your dispatch No. 30, dated 27th March last, has been received and read with interest.

The representations which you state that you have given of the sincerity of the friendship of the Government of the United States for that to which you are accredited, and of the absence of any identification with the policy of European powers, or of any committal to their interests in questions affecting Turkey, are fully approved.

This Government is not disposed to prematurely raise any question to disturb the existing control which Turkey claims over the straits leading into the Euxine. It has observed the acquiescence of other powers whose greater propinquity would suggest more intimate interests in the usage whereby the Porte claims the right to exclude the national vessels of other powers from the passage of those straits.

But while this Government does not deny the existence of the usage, and has had no occasion to question the propriety of its observance, the President deems it important to avoid recognizing it as a right under the law of nations.

The position of Turkey with reference to the Euxine may be compared to that of Denmark with reference to the Baltic, with the difference that the former is sovereign over the soil on both sides of the straits, while Sweden owns the territory on the east of the sound leading to the Baltic.

Commercial nations from the earliest times until recently submitted to the exactions of Denmark of what was called the sound dues, which were ultimately abolished by the payment of a gross sum by each country, proportionate to its tonnage, in the habit of passing the sound.

The legality of the tax when it was levied was, at least, questionable, and probably was acquiesced in from its antiquity merely, though, perhaps, in part from a regard to the comparative weakness of Denmark to resist its collection by the commercial world at large, or by the more powerful nations singly.

We are not aware that Denmark claimed the right to exclude foreign vessels of war from the Baltic merely because in proceeding thither they must necessarily pass within cannon-shot of her shores. If this right has been claimed by Turkey in respect to the Black Sea, it must have originated at a time when she was positively and comparatively in a much more advantageous position to enforce it than she now is. The Black Sea, like the Baltic, is a vast expanse of waters, which wash the shores not alone of Turkish territory, but those of another great power who may, in times of peace, at least, expect visits from men-of-war of friendly states. It seems unfair that any such claim as that of Turkey should be set up as a bar to such an intercourse, or that the privilege should in any way be subject to her sufferance.

There is no practical question making it necessary at present to discuss the subject, but should occasion arise when you are called upon to refer to it, you will bear in mind the distinction taken above, and be cautious to go no further than to recognize the exclusion of the vessels as a usage.

I am, &c.,

HAMILTON FISH.

No. 410.

Mr. MacVeagh to Mr. Fish.

No. 36.]

LEGATION OF THE UNITED STATES,
Constantinople, May 8, 1871. (Received June 12.)

SIR: The dispatch of Mr. Tuckerman, our esteemed and accomplished representative at Athens, to the Department of State, dated May 11, 1870, and recently published in the "Diplomatic Correspondence for 1870," on the subject of brigandage in Greece, has attracted considerable attention in the East. The Greek journals have published it quite extensively, and the report that it had given great pleasure to the King increased the general desire to see it. It has accordingly been republished in this capital, where, as you know, there is a large resident Greek population; and it has doubtless thus fallen under the notice of the government of the Sultan. Of course the distinguished statesman who presides over the department of foreign affairs here has not mentioned the subject to me, nor would I have suffered myself to listen to any discussion of the subject; but it is quite generally felt here, outside of the Greek colony, that Mr. Tuckerman was wholly mistaken in declaring that "Greek brigandage was born of Turkish oppression," and in calling the thieves who followed it for profit, alike before and after the independence of Greece, "restless men who fled to the mountains for independence," as well as in his assumption that the work of freeing Athens from brigands must be commenced at Constantinople. The as-

sertions are, indeed, so old, and so commonly received in the West, that it is not astonishing Mr. Tuckerman should have accepted and repeated them; but unfortunately their ill effect is not confined to the gross injustice which is thereby done this government.

It happened, indeed, curiously enough, that between the writing and the publication of Mr. Tuckerman's dispatch it became the duty of the Grand Vizier to refute the same injurious allegations proceeding from other quarters; and, in his dispatch of January 5, 1871, and of which a copy I suppose was handed you by the Turkish chargé d'affaires at Washington, he effectually disposed of the assertion that Turkey had shown any lukewarmness in the suppression of Greek brigandage. He showed also that not only had the freest permission been accorded the Greek troops to cross the Turkish frontier in pursuit of brigands, after the massacre at Marathon, in April, 1870, but that the Turkish troops had in nine months thereafter captured nineteen brigands and killed thirty-four others, who had sought a hiding place on this side of the frontier. Indeed, while this government has many and grave defects, I am convinced that no competent and impartial observer would venture to charge it with any disposition to tolerate such a crime as brigandage; and no better answer can be given to such accusation than the fact that our missionaries live and travel in all parts of the empire in almost entire security, while travel is virtually unobstructed in every part of it. Acts of lawlessness undoubtedly occur here as elsewhere, and the moldering intolerance of rival religious sects may occasionally blaze out with terrible fury; but the general security of life and property compares very favorably with most civilized countries.

In Greece, on the contrary, security is unknown, and the inhabitants of Athens dare hardly step beyond the city limits. Brigandage is there part of the structure of society, and a recognized weapon of political warfare, heretofore always tolerated, often patronized, and occasionally elevated into patriotism, when engaged in irregular warfare to enlarge the limits of Hellas. The root of the trouble really is, that the average moral intelligence of Greece is to-day incapable of seeing that the Greek brigand is a common thief, and therefore to be extirpated as the enemy of society. And it is natural, therefore, that when some atrocious murder raises the indignation of the world, its public men should endeavor to cast the blame elsewhere rather than endeavor to root out the evil.

Your obedient servant,

WAYNE MACVEAGH.

No. 411.

Mr. MacVeagh to Mr. Fish.

No. 37.]

LEGATION OF THE UNITED STATES,
Constantinople, May 15, 1871. (Received June 12.)

SIR: As I propose to avail myself on the 10th of the next month, June, of your kind permission to return home, unless some public necessity should arise in the mean time for my continuance at my post, and the legation after that date will be in the hands of the secretary, Mr. Brown, as chargé d'affaires, it has occurred to me that you might care to know, before I leave, the condition of political affairs now prevailing here.

both as regards the internal condition of the empire itself and its relations to its vassal provinces. It is to the latter consideration that I intend to confine the present dispatch. With regard to the tributary provinces in Europe, the government of the Sultan ordinarily feels little concern. The relations with Montenegro are entirely nominal; they are almost equally so with Servia, and are so also with Roumania, in times of peace and internal order in these respective provinces themselves. It is only when foreign agents or native politicians succeed in creating disturbances which threaten the public peace that they become objects of interest to the Porte; and even then less from a desire for interference than from the necessity of avoiding a pretext for the interference of other powers. The bonds which unite these provinces to the suzerain authority are so light and so little felt, that no disposition is supposed to exist to cast them off in the provinces themselves; but inasmuch as they are too weak to maintain their independence, other and neighboring powers might be interested in sowing the seeds of disaffection in the hope of absorbing them after they had renounced their allegiance to the Sultan, or of an armed occupation for the maintenance of the public tranquillity, which might ripen into annexation.

A glance at the map will show what an immense temptation existed for Russia and Austria to divide Roumania between them, and what peril to the integrity of this empire existed in the continued agitation of the question of nationality among the southern slave. Many persons here, however, affect to believe that these perils have disappeared for the present in the presence of the graver question, whether the valley of the Danube is to be German or Russian. It is not now seen how the coveted territory can be divided or the question compromised; and in that event, there may be a long postponement of it under the suzerainty of the Porte. At present there is no ground of dispute whatever between this government and any one of these provinces, and even in Roumania the party of the reigning prince has secured such a majority in the recent elections as promises the continuance of quiet and order for some time to come. The relations with the tributary provinces of Asia are not quite so satisfactory, and chiefly, I suppose, because of their Moslem population, much more sensitiveness is felt by the Porte on the subject of their loyal behavior. Indeed, "*La Pârgine*," which assumes to be a kind of national organ, never wearies of enforcing the duty of the Sultan to secure what it calls "*The Unity of Islam*" by availing himself of the repeated misconduct of the Viceroy of Egypt and the Bey of Tunis to dispossess them, and incorporate these provinces once more with the integral part of the empire. The grand chamberlain has just returned from a special mission to Cairo, to require the cessation of the building of forts and the preparation of torpedoes for the coast of Egypt and the Suez Canal, and brings the most positive assurances from the Khedive of his submission to the will of his august master. The Bey of Tunis is reported to be equally obedient in words, but, in truth, both vassals long to throw off the yoke of their vassalage, and make tentatives in that direction continually. One day it is by an attempt to enter into diplomatic relations with foreign powers directly, and the next day by contracting a loan without the sanction of the suzerain, or some other attempted exercise of sovereign authority; and while heretofore many of these acts of quasi rebellion have been overlooked, the present tendency of the Porte is that of vigilant and prompt repression of any attempt on the part of either of these provinces to overstep the limits of their delegated authority. Jealousies will thus necessarily arise from time to time, but this government seems to feel the most ample confi-

dence in the ability of its army and its navy to enforce without delay the mandates of the sovereign in any of the outlying provinces of the empire. When Prince Charles threatened to abdicate and leave Roumania a prey to its intestine factions, the Porte immediately proposed an army of occupation, thirty thousand strong, under the then disguise of a camp of instruction at "Shumla," and only needed the sanction of the protesting powers, as provided by the treaty, to exhibit its power to maintain its authority on the most northern border. When the insurrection of the Assyr tribes, on its most southern border, broke out, a well-equipped army was at once dispatched to the scene of disorder, whose rapid marches and signal victories have not only quelled all disturbances in that disaffected region, but have also taught a most useful lesson to the Khedive, who is suspected of being the real author of the rebellion. The territory has been erected into a province, with the victorious general for governor, and it is expected that a permanent force will be maintained there as a wholesome influence at once upon Egypt and Arabia. You will see, therefore, that at present and outwardly the relations between the government of the Sultan and its vassal provinces are entirely peaceful and satisfactory, and that it is only with regard to the Moslem provinces that an under-current of suspicion exists, but that, with respect to them all alike, the Porte is at present more than ever determined to maintain in their full vigor the limited relations of dependence now existing, and is also more than ever confident of its ability to do so.

Yours, &c.,

WAYNE MACVEAGH.

No. 412.

Mr. MacVeagh to Mr. Fish.

[Extract.]

No. 38.]

LEGATION OF THE UNITED STATES,
Constantinople, May 26, 1871. (Received June 19.)

SIR: In accordance with the intimation contained in my last dispatch, I propose in the present communication to state briefly for your information the actual condition of the internal affairs of this empire. At present the hold of the Grand Vizier upon the political power of the government seems even more firm than at any former period. At peace with all the world and with a new guarantee in the recent treaty of London for the territorial integrity of the empire, Turkey can afford to await the growth of the antagonism which is assumed to be inevitable between Russia and Germany upon the eastern question, and to find safety perhaps for many years behind it. Such appears to be the general idea in government circles here, while in the mean time ample opportunity and leisure will be afforded for the carrying forward of such reforms of internal administration as will give to the Porte the strength of a well-ordered and civilized state. Alas! if the performance would only equal the promise, the realization of the picture would not be difficult, but there is in eastern character such a disposition to postpone matters which are disagreeable, and to allow the future to care for itself, that it is impossible to be sanguine of the future of this country. Certain great advantages it already possesses, among them absolute equality of

rights and absolute liberty of conscience; and the value of these two blessings it is almost impossible to exaggerate, especially in the peculiar situation of Turkey. The government has also acquired the habit, owing doubtless in great part to the influence of the capitulations, of great kindness in its dealings with foreigners, which is fitly illustrated by admission free of duty of all articles for the use of the missionaries, and its granting of special grounds for their religious houses, as well as the exemption of their churches and missions from taxation. Of course the bigotry of the Moslems in some parts of the empire is still fierce, and another massacre like that of Damascus, in 1860, is still a possibility here, but unquestionably at present there is far less bitterness manifested by the Moslems toward the Christians than from some of the Christian sects toward others; and the policy as well as the professions of the government is steadily and firmly on the side of the fullest and freest toleration. Indeed, it is now proposed to remove the last bridge of distinction between the Mussulman and the non-Mussulman subjects of the Sultan, that of service in the army, and to include within the limits of the conscription all owing allegiance to the Porte, without distinction of religion. The conduct of the army in the recent suppression of the Assyr revolt was excellent, as was the entire management of the expedition, showing a degree of general efficiency far greater than was supposed to exist. Its probable strength is about one hundred and twenty thousand men, with a capacity for a very quick increase from the reserve to two hundred and fifty thousand men, and is well supplied with artillery. It is, therefore, quite competent to deal with any complications likely to arise within the empire in a summary and satisfactory manner. The navy is in equally serviceable condition for any of the ordinary or probable exigencies of the empire. Of iron-clad vessels there are five frigates, nine corvettes, and five gun-boats, and a large wooden fleet, including five ships of the line, while at present the manufacture of torpedoes for marine purposes is being actively pursued. Those great monopolies of modern civilization, the post, the telegraph, and the railway, have also received attention. The two former services, once inaugurated, are sure to push their way into popular favor, and secure their extension, wherever the necessity for their use exists, and perhaps the defects of their present administration here are less proper subjects of surprise than their existence is of congratulation.

The same remarks are applicable to the railway system also, though far more important results are likely to flow from it in the general increase of the stability as well as of the resources of the country. The Roumelian railways, connecting the capital by way of Adrianople with the European system, are expected to be completed during 1872, and special attention is now being given to the great project of connecting this city with the Persian Gulf by the valley of the Euphrates. If these purposes are realized a continuous line of railway will traverse the whole breadth of European and Asiatic Turkey, and "thrust, as it were, an iron girder right through the wide arch" of the Ottoman dominions. Of course branches would soon multiply both in Roumelia and in Asia Minor, and would exert an almost magical influence in the development and improvement of the entire empire.

Various attempts have also been made at legal reform, but thus far without any considerable success. The failure is partly owing, no doubt, to foreign interference in the withdrawal of a considerable portion of the population from responsibility to the laws of the country in which they choose to permanently reside. Every day a half dozen

courts of as many different nationalities are in session here and elsewhere throughout the empire, administering as many different systems of laws. In many instances these litigations are between persons who were born, have always lived, and desire to die and be buried in Turkey; and yet, by a pretext of protection, or by some pretense of naturalization, they assume to be subjects of some foreign power, and thus escape the jurisdiction of the local tribunals of the empire.

The evils sure to flow from such abuses were felt to be so serious by the plenipotentiaries assembled at Paris in 1856, that they unanimously agreed upon the necessity of revising the conditions imposed by the capitulations, and Count Cavour pronounced himself in favor of their immediate abolition. While, however, they doubtless seriously obstruct all efforts at thorough legal reform, other obstacles equally serious exist in the utter absence of competent judges, of trained advocates, and of a public opinion which recognizes the absolute necessity of an impartial and independent administration of justice. All these requisites are of slow growth, they can neither be imported nor forced, and until they exist it is to be feared that the well-meaning and repeated efforts in these directions which the Porte makes from time to time will not bear much fruit. And yet the lack of a proper system of law and an impartial administration of it, and the lack of a proper financial system, to which I called your attention at some length in a former dispatch, these are the two most grave evils which afflict the Ottoman Empire and threaten its ruin. The theoretical despotism of the Sultan is so tempered in the actual administration of the government and by the interference of the foreign representatives as to be almost practically harmless, while the cardinal vice of polygamy is rarely practiced out of the larger towns, and has therefore less ruinous effects than would be supposed, and indeed it is hoped that it is gradually diminishing, and with it the degradation of woman, which is perhaps hardly less dangerous to the state.

* * * * *

In any event it ought always to be a source of sincere pride to Americans to reflect, apart from any sectarian or even religious bias, upon the great and good work our fellow countrymen and countrywomen have done and are still doing for the improvement, elevation, and enlightenment of the various populations of this empire. Apart even from their labors of evangelization, they leave indelible impressions of their work and its usefulness in the increased desire for knowledge, in the introduction of western ideas of life and growth, in the distribution of printed matter, and above all in the schools they establish, which are altogether the most hopeful signs I see of the future of the East, while, as the natural development of these, numerous small district schools have arisen, "The Protestant College" in Syria, and "The Robert College" on the Bosphorus, which are sure to be fit guardians of the name and honor of our country and to secure for her the benedictions of the coming generations.

I have, &c.,

WAYNE MACVEAGH.

VENEZUELA.

No. 413.

Mr. Pile to Mr. Fish.

No. 3.]

UNITED STATES LEGATION,
Caracas, October 5, 1871. (Received October 21.)

SIR: I have the honor to transmit herewith a copy of letter addressed to this legation by Mr. J. W. Hancox, president of the Venezuela Steam Transportation Company, detailing the facts in reference to the seizure of the vessels of that company at Ciudad Bolivar, to which the attention of the Department is respectfully solicited.

I have asked the United States consul at Ciudad Bolivar for an official report of the facts in this case within his knowledge; and, as I am informed that the United States consuls at Martinique and Guadaloupe have been applied to by our vice-consul at Trinidad to send a naval steamer to investigate this matter, I have written to the commander of our West India squadron a statement of the facts, and requested him, in case a vessel is sent, that it be ordered to report at La Guayra for conference with me previous to going to the Oronoco River. I shall bring this matter to the attention of this government as soon as I am formally received, and will promptly communicate to the Department any further information I may receive in reference thereto.

I have, &c., &c.,

WM. A. PILE.

Inclosures.

No. 1.—Mr. Hancox to Mr. Pile, September 20, 1871.

No. 2.—Mr. Fitt to Mr. Partridge, September 5, 1871.

No. 1.

Mr. J. W. Hancox to Mr. William A. Pile.

TRINIDAD, September 20, 1871.

SIR: I have the honor to inform you that I am president of the Venezuela Steam Transportation Company, a company organized under the laws of the State of New York.

That this company owns the steamer Dudley Buck, plying between La Guayra and Trinidad, the steamer Hero, connecting with the Dudley Buck, and plying between Port of Spain and Ciudad Bolivar. That this company further owns the steamers Nutrias and San Fernando, plying between Ciudad Bolivar and Nutrias on the rivers Oronoco and Apure.

That all these steamers are permitted to carry their national flag by special agreement with the existing government of Venezuela, and only upon this condition the company has consented to navigate their waters. The steamer Hero left Trinidad duly cleared for Ciudad Bolivar, on the 26th of August, and while on her voyage up the Oronoco, opposite a place called Guayana la Vieja, was boarded by about two hundred armed men, calling themselves Blues or revolutionists, the officers were overpowered and the vessel captured. The officers, American citizens, with pistols presented to their heads, were forced to navigate the steamer as directed, and the steamer was forcibly carried to a place called Soledad, opposite to Ciudad Bolivar, and the captain was imprisoned in his state-room. The steamer Nutrias, lying at her moorings at Ciudad Bolivar, was forcibly taken possession of by the legitimate government, converted into an armed vessel, and opened a naval engagement against the steamer Hero, causing the Hero to suffer serious damage.

The undersigned was on board of the steamer San Fernando, a new boat making her first trip up the river Oronoco, and arrived at Ciudad Bolivar at 2 p. m. on Sunday, September 3; found the town in possession of the revolutionary party; also the steamer

Hero with armed soldiers on board. I immediately had the necessary proofs of capture and imprisonment certified by the American consul, John Dalton, esq. I then demanded from the chief who governed the city, the release of the steamer Hero, which was peremptorily refused, and continued to exercise all the influence at my command toward the release of the steamer, until the 5th instant, on which day I was notified that if I would comply with their conditions the Hero would be allowed to return to Port of Spain, viz:

1st. That the Hero should return from Port of Spain on the 10th, and resume her regular trips.

2d. That the Nutrias, which had been carried off by the legitimate government with government officers on board, to Trinidad, should return.

3d. That I should use my influence to stop the steamer Dudley Buck from running from Trinidad to Laguayra.

These were only such conditions which prisoners, as I considered myself and the officers, could accept. The importance of communicating with the United States by the mail-packet ship which was to leave Trinidad on the 8th September, and to preserve my property, gave me no choice but to accept their conditions, which they declared must be in writing, and, through one of their chiefs, my word as a mason. I left on the morning of the 6th and arrived in Trinidad in time to connect with the mail of the 8th instant, by which I had the consul's dispatches forwarded. Copy of his telegram to Secretary Fish I herewith inclose.

I returned with the Hero to Ciudad Bolivar, according to agreement, on the 10th September, and the Nutrias left Trinidad on the 13th instant. On my arrival at Ciudad Bolivar I found the steamer San Fernando in possession of the military powers, and on the 14th instant, with the American flag struck, she left on a military expedition up the rivers Oronoco and Apure. To save the vessel, I prevailed upon the master and engineer to remain on board as long as permitted. I left with the Hero on the 17th instant.

As the steamer Dudley Buck is, by special contract of the company, bound to and with Captain Trevirianas to make regular trips to transmit the government mails, my influence, according to agreement, could not prevent him from making this trip.

Your honor has now before you an unvarnished statement of facts; the proof of nearly all is now in the hands of the United States Government. That our Government will act promptly I cannot doubt, and it will be the only means of saving the vessels in these waters, as an attack, now contemplated by the legitimate government upon Ciudad Bolivar, will, without doubt, destroy our steamers.

I beg and pray of your excellency to make use of every means at your command to protect and save from loss our vessels, for if the stars and stripes, our pride and glory, are no guarantee to Americans in any or every clime, I say for one, let me hoist a piece of calico in its stead.

I have, &c., &c.,

J. W. HANCOX.

Mr. John Dalton to Mr. Fish.

U. S. CONSULATE AT CIUDAD BOLIVAR, STATE OF GUAYANA, VENEZUELA.
September 6, 1871.

SIR: Two American steamers, namely, Hero and Nutrias, have been seized by retreating forces in Venezuela. American citizens, officers of said steamers, are prisoners. Property and lives of Americans and other foreign residents are in danger.

Full particulars of these outrages forwarded by mail to you.

National dignity and humanity compel me to apply to you for due protection, to be granted at the earliest convenience.

JOHN DALTON,
United States Consul.

No. 2.

Mr. Edward H. Fitt to Mr. Jas. R. Partridge.

UNITED STATES CONSULATE,
Trinidad, September 5, 1871. (Received October 31.)

SIR: I have the honor to inclose declaration on oath of D. L. Sturges, master of the United States steamer Nutrias, as also of Joseph Edny and John Lovell, first and second engineers of the same vessel.

You will perceive that the Nutrias was taken possession of by President Dalla Costa of the State of Guayana, and converted into a vessel of war for the purpose of destroying the American steamer Hero, which, it is said, was in possession of the other belligerent party.

The Nutrias, which had two guns on board, discharged several cannon-shots at the Hero to prevent her landing the troops which she had on board.

As soon as Ciudad Bolivar was in the possession of the party styling themselves the Blues, the government officers on board of the Nutrias ordered Captain Sturges to sail for this port, where he arrived in the morning of the 3d September. On arrival Captain Sturges went on board Her Majesty's ship Cherub to claim the protection of that vessel, which was granted to him, or he would have been compelled by the government officers to proceed in search of the Venezuelan steamer of war Oriente, for the purpose of transferring the officers, men, and arms which she had conveyed from Bolivar.

I have applied to the consuls at Martinique and Guadalonpe to send an American steamer of war to Bolivar to investigate these matters without delay, and afford protection to any American citizens who may require it.

In conjunction with other consuls of this port, I applied to the governor of this island to order Her Britannic Majesty's ship Cherub to proceed to Bolivar, for the purpose of affording an asylum to any foreign citizens who might be in need of protection. This he declined doing unless we could produce evidence that the lives of any of the foreign citizens were in danger. As we could not produce this evidence, there the matter ended.

On receipt of further information from Ciudad Bolivar I will communicate it to you. I may add, the Hero, due yesterday, has not yet appeared. It is reported that when the Nutrias left Bolivar she appeared to be on fire. I cannot vouch for the correctness of this information. I think it expedient that measures should be promptly taken to investigate these occurrences.

I will communicate with the Department of State by the mail that leaves here on the 8th instant.

Mr. J. W. Haucocx, president of the Venezuela Steam Transportation Company, is with the steamer San Fernando up the Oronoco River.

I have, &c., &c.,

EDWARD H. FITT,
United States Vice-Consul.

No. 414.

By the President of the United States of America.

A PROCLAMATION.

Whereas satisfactory evidence was given to me on the 17th day of this month by the government of Portugal that the discriminating duties heretofore levied in the ports of Portugal on merchandise imported in vessels of the United States into said ports from other countries than those of which said merchandise was the growth, production, or manufacture have been abolished:

Now, therefore, I, Ulysses Grant, President of the United States of America, by virtue of the authority vested in me by an act of Congress of January 7, 1824, and by an act in addition thereto of May 24, 1828, do hereby declare and proclaim that the discriminating duties heretofore levied in ports of the United States upon merchandise imported in Portuguese vessels from countries other than those of which such merchandise is the growth, produce, or manufacture, shall be and are hereby suspended and discontinued, this suspension or discontinuance to take effect on and after the said 17th day of this month, and to continue so long as the reciprocal exemption of merchandise belonging to citizens of the United States from such discriminating duties shall be granted in the ports of Portugal.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington, this twenty-fifth day of February, in the year of our Lord one thousand eight hundred and seventy-one, and of the Independence of the United States of America the ninety-fifth.

[L. s.]

U. S. GRANT.

By the President:

HAMILTON FISH, *Secretary of State.*

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